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No. 91-1084

In the Supreme Court of the United States

October Term, 1991

Patricia Cotlow, et al.,

Appellants,

v.

James Emison, et al.,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

JURISDICTIONAL STATEMENT

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QUESTIONS PRESENTED

Does the Anti-Injunction Act permit a federal court to enjoin a state court from adjudicating challenges to a state's legislative and congressional districts?

Should a federal court defer to a state court where parallel actions are pending in each court challenging a state's legislative and congressional districts?

Does the All Writs Act authorize a federal court to enjoin completion of a previously commenced state court action which is about to reach a final judgment redistricting the state Legislature in accordance with state and federal constitutional provisions and standards?

LISTING OF ADDITIONAL PARTIES

Appellants

Philip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all citizens of Minnesota similarly situated; Joan Growe, Secretary of State of the State of Minnesota; Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota; the Seventy-seventh Minnesota State House of Represenatives; and the Seventy-seventh Minnesota State Senate.

Appellees

Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated; Duane Benson, Terry Dempsey, Delores Hettig, Richard Harmon, David E. Peterson, E.M. Patricia Pidcock, and Frank Ringsmuth; and Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1991

No. _____

PATRICIA COTLOW, ET AL.,

Appellants,

vs.

JAMES EMISON, ET AL.,

Appellees.

On Appeal from the United States District Court for the District of Minnesota

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CITATION TO OPINION BELOW

The December 5, 1991, Order of Stay of All Proceedings Pending Before the Minnesota Special Redistricting Panel in *Cotlow v. Growe*, No. C8-91-985, issued by the three-judge federal court is not officially reported. It was filed in the United States District Court for the District of Minnesota, Fourth Division, as Civil File Number 4-91-202, and is set forth in the accompanying Appendix at App. A-1.

JURISDICTION

The Order of Stay and the Judgment appealed from were filed on December 5, 1991. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1253.

CONSTITUTIONAL PROVISIONS INVOLVED

The Tenth Amendment to the United States Constitution provides:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Section 1 of the Fourteenth Amendment to the United States Constitution provides in pertinent part:

> No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.

The Minnesota Constitution, article IV, section 2, provides:

> The number of members who compose the senate and house of representatives shall be prescribed by law. The representation in both houses shall be apportioned equally throughout the different sections of the state in proportion to the population thereof.

The Minnesota Constitution, article IV, section 3, provides:

> At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional and legislative districts. Senators shall be chosen by single districts of convenient contiguous territory. No representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series.

STATUTORY PROVISIONS INVOLVED

28 U.S.C. § 1651(a) provides:

> The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

28 U.S.C. § 2283 provides:

> A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

42 U.S.C. § 1973 provides:

(a) No voting qualification or prerequisite to

> voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, as provided in subsection (b) of this section.
>
> (b) A violation of subsection (a) of this section is established if, based on the totality of the circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

Minnesota Statutes, section 202A.14, subdivision 1, provides in pertinent part:

> At 7:30 p.m. on the first Tuesday after the first Monday in March in every state general election year there shall be held for every election precinct a party caucus in the manner

provided in sections 202A.14 to 202A.19. . . .

Minnesota Statutes, section 204B.135, subdivision 1, provides:

> A city that elects its council members by wards may not redistrict those wards before the legislature has been redistricted in a year ending in one or two. The wards must be redistricted within 60 days after the legislature has been redistricted or at least 19 weeks before the state primary election in the year ending in two, whichever is first.

Minnesota Statutes, section 204B.135, subdivision 2, provides:

> For purposes of this subdivision, "local government election district" means a county district, park and recreation district, school district, or soil and water conservation district. Local government election districts, other than city wards covered by subdivision 1, may not be redistricted until precinct boundaries are reestablished under section 204B.14, subdivision 3, paragraph (c). Election districts covered by this subdivision must be redistricted within 80 days of the time when the legislature has been redistricted or at least 15 weeks before the state primary election in the year ending in two, whichever comes first.

Minnesota Statutes, section 204B.14, subdivision 1a, provides:

> It is the intention of the legislature to complete congressional and legislative

> redistricting activities in time to permit counties and municipalities to begin the process of reestablishing precinct boundaries as soon as possible after the adoption of the congressional and legislative redistricting plans but in no case later than 25 weeks before the state primary election in the year ending in two.

Minnesota Statutes, section 204D.03, subdivision 1, provides in pertinent part:

> The state primary shall be held on the first Tuesday after the second Monday in September in each even-numbered year. . . .

LEGISLATIVE RESOLUTION INVOLVED

House Concurrent Resolution No. 2 of the Seventy-seventh Minnesota State Legislature provides:

> A plan presented to the Senate or House of Representatives for redistricting seats in the Senate and House of Representatives must adhere to the following standards:
>
> (1) The Senate must be composed of 67 members. The House of Re presentatives must be compose d of 134 members.
>
> (2) Each district is entitled to elect a single member.
>
> (3) A representative district may not be divided in the formation of a senate district.

(4) The districts must be substantially equal in population. The population of a district must not deviate from t he ideal by more than two perc ent, plus or minus.

(5) The districts must be composed of convenient contiguous territory. To the extent consistent with the other standards in this resolution, districts should be compact. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district.

(6) The districts must be numbered in a regular series, beginning with House district 1A in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the seven-county metropolitan area until the southeast corner has been reached; then to the seven-county metropolitan area outside the cities of Minneapolis and St. Paul; then in Minneapolis and St. Paul.

(7) The districts must not dilute the voting strength of racial or language minority populations. Where a concentration of a

racial or language minority makes it possible, the districts must increase the probability that members of the minority will be elected.

(8) A county, city, or town should not be divided into more than one district except as necessary to meet equal-population requirements or to form districts that are composed of convenient contiguous territory.

(9) The districts should attempt to preserve communities of interest where that can be done in compliance with the preceding standards.

(10) The geographic areas and population counts used in maps, tables, and legal descriptions of the districts must be those used by the Legislative Coordinating Commission's Subcommittee on Redistricting.

The Subcommittee on Redistricting will notify the President of the Senate and the Speaker of the House of Representatives when the necessary 1990 census data has been received from the United States Census Bureau, loaded into the Subcommittee's computerized redistricting system, and verified as ready for use in redistricting. A redistricting plan will not be considered for adoption by the Senate or

House of Representatives until the notice has been given.

STATEMENT OF THE CASE

Since early 1991, actions have been pending i the Minnesota District Court and in the United States District Court for the District of Minnesota challenging the constitutionality of Minnesota's legislative and congressional districts in light of population shifts reflected in the 1990 Census. After the Minnesota Legislature enacted a new legislative redistricting plan in May 1991, challenges were added in both actions to the constitutionality of the new law. Both courts proceeded to consider the constitutionality of the new redistricting law and to prepare to implement their own legislative and congressional redistricting plans. On December 5, 1991, the federal court enjoined all proceedings in the state court redistricting action and this appeal ensued.

On January 24, 1991, Appellants Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss (the "*Cotlow* Plaintiffs") commenced an action in the district court of Hennepin County, Minnesota, seeking a declaratory judgment that the legislative redistricting plan adopted in *LaComb v. Growe*, 541 F. Supp. 160 (D. Minn. 1982), enacted with corrections as Minn. Laws 1983, chapter 191, (codified as Minn. Stat. §§ 2.019 and 2.042-2.702) and the congressional redistricting plan adopted in *LaComb v. Growe*, 541 F. Supp. 145 (D. Minn. 1982), *aff'd sub nom. Orwoll v. LaComb*, 456 U.S. 966 (1982), violate both the Minnesota Constitution and the United States Constitution. The complaint asks that Secretary of State Joan Growe, the Hennepin County Auditor, and all Minnesota county chief election officers be enjoined from conducting elections under the old plans. The complaint further asks that the court retain jurisdiction until the end of the legislative session to determine the validity of any new legislative or congressional

redistricting plans that might be enacted, and in the absence of enactment of constitutionally valid plans, to draw the necessary plans itself.[1]

On March 18, 1991, the Appellees James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo (the "*Emison* Plaintiffs") filed their complaint in this action, invoking federal jurisdiction under 28 U.S.C. §§ 1331, 1343(a)(3)-(4), 2201, 2202, and 2284; and 42 U.S.C. §§ 1973, 1983, and 1988. The complaint seeks essentially the same relief as demanded by the *Cotlow* Plaintiffs in the state action, but it also asks the court to declare that the legislative plan drawn by the federal court in 1982 and adopted by the Minnesota Legislature in 1983 violates the Voting Rights Act and require that any new legislative plan drawn by the federal court maximize the voting strength of certain minority populations.[2]

On April 8, 1991, a three-judge panel was appointed in the federal action under 28 U.S.C. § 2284(a). It is composed of Circuit Chief Judge Donald P. Lay, District Judge Harry H. MacLaughlin, and District Judge Paul A. Magnuson.

On May 29, 1991, S.F. No. 1571, chapter 246, prescribing the boundaries of legislative districts, became a law of the state of Minnesota without the signature of the Governor. *Seventy-seventh Minnesota State Senate v. Carlson*, No. C3-91-7547 (Minn. Dist. Court, 2d Judicial

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[1] The Minnesota House of Representatives, the Minnesota Senate, and a group of plaintiffs were later permitted to intervene in the state court action.

[2] The Minnesota House of Representatives, the Minnesota Senate, the Hennepin County Auditor, and the plaintiffs from the state court action were later permitted to intervene in the federal court action.

Dist., Aug. 2, 1991); Minn. Laws, 1991, chapter 246. It was uniformly recognized that chapter 246 contained defects in its descriptions of district boundaries. For instance some districts, read literally, were incoherent and others were discontiguous.[3]

On June 4, 1991, the Minnesota Supreme Court appointed a three-judge panel to preside over the state court redistricting action. The state court panel is composed of a judge of the Court of Appeals and two judges of the District Court. App. A-104.

The state court scheduled its first pretrial conference for July 26, 1991. The federal court then set its first pretrial conference for July 22. All parties and both courts agreed that it would be desirable to complete legislative and congressional redistricting well before precinct caucuses scheduled for March 3, 1992. *See* Minn. Stat. § 202A.14, subd. 1. They agreed it would be desirable to allow time, not only for the Legislature to enact plans, but also for a court to review any plans enacted or to adopt a plan if the Legislature failed to enact one, and for appeals from the decisions of the district courts to be completed before March 3, 1992.

On August 9, 1991, Appellees Duane Benson, Terry Dempsey, Delores Hettig, Richard Harmon, David E. Peterson, E.M. Patricia Pidcock, and Frank Ringsmuth (the "*Benson* Plaintiffs") filed suit in the United States District

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[3] Appellants have maintained that the courts' role in reviewing chapter 246 is limited to ascertaining its meaning and making only those changes to the law which are necessary to correct its defects. *E.g., Upham v. Seamon*, 456 U.S. 37 (1982) (per curiam); *White v. Weiser*, 412 U.S. 783 (1973). Other parties have maintained that the defects require the courts to draw their own plans without regard to chapter 246.

Court for the District of Minnesota. They seek a declaration that chapter 246 is an invalid plan of legislative apportionment on the following grounds:

1. Excessive population deviations among the districts violate the Fourteenth Amendment to the Constitution of the United States, the Constitution of Minnesota, the concurrent resolution adopted by the Senate and House of Representatives establishing standards for legislative redistricting plans, standards of past legislative redistricting plans, and standards required by good public policy.

2. Districts composed of noncontiguous territory violate Article IV, § 3, of the Minnesota Constitution.

3. House districts that are not nested within senate districts violate Article IV, § 3, of the Minnesota Constitution.

4. Dozens of other flaws, errors, mistakes, and defects, such as district descriptions referring to counties, cities, and streets that do not exist and directions that cannot be followed, make it impossible for the Secretary of State to hold an election under the districts described in the law.

The complaint does not allege that chapter 246 violates the Voting Rights Act.

On August 21, 1991, the federal court issued a Memorandum Opinion and Order that denied motions of the Minnesota Legislature and the Secretary of State for the federal court to abstain pending further proceedings in the state court, denied a motion of the *Emison* Plaintiffs to stay proceedings in the state court, and granted a motion of the Legislature for the federal court to abstain pending further proceedings in the Legislature. The federal court said that:

> In light of the time constraints and the important federal rights at stake, we should not abstain and defer to the state courts. Under the circumstances, it would be difficult for the state judicial processes, including the Minnesota Supreme Court, to approve the new legislative plan by March, 1992. Even assuming the state court continues to exercise its jurisdiction over the case, whatever plan that it approves would have to be reviewed by this court in terms of the challenges made to the plan under Section 2 of the Voting Rights Act.

App. A-49.

On August 27, 1991, intervening plaintiffs in the state court action filed their Complaint in Intervention. The complaint alleges that chapter 246 "does not meet constitutional and other requirements." App. A-118.

On October 1, 1991, after its initial review of chapter 246, the state court issued its Pretrial Order No. 4, finding that chapter 246 contains "numerous infirmities, including noncontiguous districts" under both the Minnesota Constitution, Article IV, §§ 2 and 3, and the Fourteenth Amendment to the United States Constitution. App. A-139. Because no party submitted specific allegations of Voting

Rights Act violations in the state court action, the state court ordered submission of any alleged violations by October 7, 1991, without waiver of jurisdictional objections. No violations of the Voting Rights Act were asserted. App. A-164.

On November 21, 1991, after completing its review of chapter 246 and in accordance with the schedule set forth in its earlier orders, the state court issued an order holding that:

> Most of the constitutional and statutory defects in Minnesota Laws 1991, Chapter 246 can be cured by ascertaining and effectuating the legislative intent *see* Minn. Stat. § 645.16 (1990); and by applying canons of statutory construction, Minn. Stat. §§ 645.16 through 645.43 (1990).

App. A-167 to A-168. The state court concluded that "Chapter 246 contains no Federal Voting Rights Act violation."

In its November 21, 1991 order, the state court indicated it had come to "an enduring realization that drawing accurate and verifiable legislative boundaries for Minnesota's 201 districts is a complex and time consuming operation." App. A-172. Accordingly, it issued its order in preliminary form, setting forth its resolution of the ambiguities in the state law and correcting what it found to be violations of the Minnesota and United States Constitutions. Annotations explaining its corrections were to be included in its final order. App. A-168.

The state court asked the parties to examine its preliminary order and identify any errors before a final hearing on December 3. The parties submitted numerous

suggestions for minor corrections and various suggestions to solve the problem of making the court's order sufficiently final to permit an immediate appeal to the Minnesota Supreme Court, while also making clear that the Legislature remained free to enact whatever changes it might choose. At a hearing on December 3, 1991, the state court announced its intention to issue its final order within a few days and to defer consideration of congressional redistricting plans until after the Legislature reconvened in its session scheduled for early January.

On December 4, 1991, the federal court held a hearing to consider the *Benson* Plaintiffs' motion for summary judgment which requested that chapter 246 be declared invalid. The parties were asked to identify the provisions of chapter 246 they considered to be unconstitutional. Various parties referred to the state court's preliminary order and to the fact that they expected the state court's final order to be issued within days and that they expected the state court's order would identify which provisions it believed to be unconstitutional and which provisions it believed could be corrected by construing the law under Minnesota principles of statutory construction. The federal court did not advise the parties that it was considering staying proceedings in the state court.

The next day, on December 5, 1991, the federal court issued its order staying all proceedings in the state court and enjoining state and county election officers, as well as the Legislature, from attempting to enforce or implement the state court's order. The order also stays all previous orders of the state court. App. A-14. Judge MacLaughlin dissented, saying "it seems clear to me that this Court has no legal authority to issue the injunction." App. A-18. Judgment was entered the day of the order.

On December 9, 1991, the state court issued its

Findings of Fact, Conclusions of Law, and Order for Judgment on Legislative Redistricting. This final legislative redistricting order was issued "subject to the stay issued by the United States District Court in *Emison*." App. A-272.

Appellants filed their Notice of Appeal on December 13, 1991. Jurisdiction is conferred on this Court by 28 U.S.C. § 1253 to review a decision of a statutory three-judge court upon appeal by any party from an order granting an injunction.

THE QUESTION PRESENTED IS SUBSTANTIAL

I. INTRODUCTION

The injunction issued by the federal three-judge panel has effectively transferred from the state courts to the federal courts the entire responsibility for reviewing challenges to Minnesota's legislative and congressional districts. It strikes at the heart of our federal system of justice, of which the state courts are an essential part. The federal court's blatant disregard in this case for the principles of federalism is an injustice that undermines the legislatures and courts in all fifty states.

If a federal court may stop the presses just as a state court's opinion is about to be published, there is no reason for a state court ever to begin the complex and time-consuming task of adjudicating state redistricting cases. If a federal court may enjoin a state court from construing a state redistricting law, only the federal courts will be left to construe redistricting provisions in state constitutions, state statutes, and state legislative resolutions, and only the federal courts will be left to construe and define state policy on redistricting.

Minnesota was one of the first dozen states to enact

a legislative redistricting plan after the 1990 census. NATIONAL CONFERENCE OF STATE LEGISLATURES, REAPPORTIONMENT LAW UPDATE, Summer Quarter 1991 at 5. It was the third state to have its 1991 redistricting plan reviewed by a state court, as this Court encouraged in *Scott v. Germano*, 381 U.S. 407 (1965).[4] Of nearly 90 challenges to legislative or congressional redistricting plans during the 1980s, about 30 were considered by the state courts. *See* NATIONAL CONFERENCE OF STATE LEGISLATURES, REAPPORTIONMENT UPDATE (April 1987). If the trend toward state court involvement in redistricting continues, there will be many more cases filed in the state courts, rather than in the federal courts, as the 1990s round of redistricting litigation progresses. The federal court's injunction would reverse that legitimate and desirable trend.

II. THE FEDERAL COURT'S INJUNCTION OF ALL STATE COURT PROCEEDINGS VIOLATES THE ANTI-INJUNCTION ACT.

The federal court did not have authority to enjoin the state court redistricting action. The federal court's order exceeds the boundaries established by Congress for our nation's dual federal and state court system and intrudes

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[4] The first two states to pass plans in 1991 and have them reviewed in state court were Texas, *Mena v. Richards*, No. C-454-91-F (332nd Judicial District, Hidalgo County, filed June 17, 1991); and Virginia, *Jamerson v. Anderson*, No. CH-91-000139-00 (Circuit Court of Halifax County, Virginia, filed June 24, 1991). Suits challenging legislative plans have also been filed in the state courts of Ohio, *Voinovich v. Ferguson*, No. 91-1882 (Ohio Supreme Court, filed Sept. 19, 1991) (removed to federal court, remanded to state court, remand stayed, *see Voinovich v. Ferguson*, No. 91-4057 (6th Cir., filed Nov. 26, 1991; California, *Wilson v. March Fong Eu*, No. S022835 (Supreme Court, filed Sept. 6, 1991); Nebraska, *Day v. Nelson*, No. Doc. 472 Page 060 (Dist. Ct. Lancaster County, filed Sept. 6, 1991); and Alaska, *Southeast Conference v. Hickel*, No. 91-1608 (Superior Court, Juneau, filed Sept. 27, 1991).

upon the jurisdiction of the State of Minnesota and its courts.

Congress recognized the limits on federal court authority to enjoin state courts when it enacted the Anti-Injunction Act. 28 U.S.C. § 2283. This Act embodies the constitutional requirement of joint sovereignty which includes a federal government and judiciary with limited powers as found in the Tenth Amendment. U.S. Const. amend. X. The limits on federal power through the Tenth Amendment was acknowledged by this Court as recently as June. *Gregory v. Ashcroft*, 111 S. Ct. 2395, 2399-2402 (1991). The Tenth Amendment is "a recognition of a State's constitutional responsibility for the establishment and operation of its own government." *Id.* (quoting, *Luther v. Borden*, 7 Howard 1, 41 (1849)).

The Minnesota Legislature redraws its legislative and congressional districts every ten years pursuant to the Minnesota Constitution. Art. IV, § 3. While reapportionment involves federal constitutional issues, these issues can be resolved by state courts. *Hines v. Lowrey*, 305 U.S. 85 (1938). When an issue is a state constitutional prerogative, it is controlled by the Tenth Amendment and remains the state's responsibility. *Sugarman v. Dougall*, 413 U.S. 634, 648 (1973). Furthermore, to protect the "Republican Form of Government" guaranteed by the U.S. Constitution, Article IV, § 4, elected state judges should review the apportionment plan passed by the legislature barring any exclusive jurisdiction for the federal court.

As Judge MacLaughlin recognized in his dissent, the Anti-Injunction Act, 28 U.S.C. § 2283, establishes a general prohibition against federal court interference with state court proceedings. App. A-18. The statute provides:

> A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

The federal court apparently recognized that it was constrained by this provision, but deemed that its order was "necessary in aid of its jurisdiction." App. A-11.

The exceptions contained in the Anti-Injunction Act are "narrow and are 'not [to] be enlarged by loose statutory construction.'" *Chick Kam Choo v. Exxon Corp.*, 486 U.S. 140, 146 (1988) (quoting *Atlantic Coast Line R.R. v. Brotherhood of Locomotive Eng'rs*, 398 U.S. 281 (1970)). The Act does not convey "a broad general policy for appropriate ad hoc application," but rather is "a clear-cut prohibition qualified only by specifically defined exceptions." *Atlantic Coast Line R.R. v. Brotherhood of Locomotive Eng'rs*, 398 U.S. 281, 287 (1970) (quoting *Amalgamated Clothing Workers v. Richman Bros.*, 348 U.S. 511, 515-16 (1955)); *see also Blunt, Ellis & Loewi, Inc. v. Hlavinka*, 896 F.2d 240, 241 (7th Cir.), *cert. denied*, 111 S. Ct. 51 (1990); *United States Steel Corp. Plan for Employee Ins. Benefits v. Musisko*, 885 F.2d 1170, 1176 (3d Cir. 1989), *cert. denied*, 493 U.S. 1074 (1990). If a federal court's power to enjoin a state court action is in doubt, the federal court should not intrude upon the state court's authority. *Atlantic Coast Line R.R.*, 398 U.S. at 297.

The federal court concluded that an injunction of the state court redistricting action was necessary in aid of its jurisdiction because competing judgments might cause "confusion and uncertainty." App. A-11 to A-14. It recognized that the state court's orders might be inconsistent with its orders and held that such a situation should not

continue.[5] Rather than defer to the state court's exercise of concurrent jurisdiction, *see Scott v. Germano*, 381 U.S. 407, 409 (1965), the federal court concluded it was necessary to enjoin the state court.[6] As Judge MacLaughlin pointed out in his dissent, any uncertainty created by the state court's actions cannot be said to interfere with the federal court's exercise of its jurisdiction. App. A-19 to A-20.

The "aid of jurisdiction" exception to the Anti-Injunction Act is extremely narrow. It applies almost exclusively to *in rem* proceedings or to cases where a state court action "would interfere with ongoing federal oversight of a case, such as school desegregation orders." 1A pt. 2 J. MOORE, W. TAGGART, A. VESTAL, J. WICKER & B. RINGLE, MOORE'S FEDERAL PRACTICE ¶ .209[2] at 2340 (2d ed. 1991); *see Garcia v. Bauza-Salas*, 862 F.2d 905, 909 (1st Cir. 1988). This narrow exception does not apply simply because parallel actions are proceeding in both federal and state courts, even where resolution of the matter by both courts would be inconsistent and unworkable. *Atlantic Coast Line R.R.*, 398 U.S. at 295-96; *Phillips v. Chas. Schreiner Bank*, 894 F.2d 127, 132 (5th Cir. 1990); *State of Texas v. United States*, 837

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[5] The risk of inconsistent orders existed from the time the federal action was filed in March 1991. On August 21, 1991, the federal court denied a motion to enjoin the state court action. App. A-37. The federal court has now reversed this holding and issued its injunction in the very late stages of this redistricting litigation without any notice, hearing, or additional briefing.

[6] In enjoining the state court proceeding, the federal court apparently assumed that it had exclusive jurisdiction over challenges under section 2 of the Voting Rights Act, 42 U.S.C. § 1973. App. A-10. This assumption was erroneous, as state courts have concurrent jurisdiction over such claims. *See Hathorn v. Lovorn*, 457 U.S. 255, 269 (1982); *see also Gulf Offshore Co. v. Mobil Oil Corp.*, 453 U.S. 473, 477-78 (1981) (concurrent state court jurisdiction presumed absent provision by Congress to the contrary or disabling incompatibility).

F.2d 184, 187 n.4 (5th Cir.), *cert. denied*, 488 U.S. 821 (1988); *Lou v. Belzberg*, 834 F.2d 730, 740 (9th Cir. 1987), *cert. denied*, 485 U.S. 993 (1988).[7]

The federal court lacks authority to enjoin the state court action even where the state court action interferes with the federal action. A federal court "does not have inherent power to enjoin state court proceedings merely because those proceedings interfere with a protected federal right or invade an area pre-empted by federal law, even when the interference is unmistakably clear." *Atlantic Coast Line R.R.*, 398 U.S. at 294. Instead, the issue should be raised in the state court action and that court should determine the limits of its own jurisdiction. *Chick Kam Choo*, 486 U.S. at 149-50 ("[W]hen a state proceeding presents a federal issue, even a pre-emption issue, the proper course is to seek resolution of that issue by the state court.").

The federal court further appeared to hold that its injunction was justified because the state court's actions intruded upon the work of the Minnesota Legislature. App. A-11. However, even if the state court's actions were improper, and the Appellants maintain they were not,[8] the

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[7] The federal court's jurisdiction over redistricting litigation in Minnesota in 1981 and 1982 should not be considered "ongoing federal oversight of a case" which would prevent the Minnesota state court from adjudicating redistricting litigation in Minnesota at this time. All parties recognize that the districts used in the 1980s must be redrawn in response to the 1990 Census. Federal court control of a redistricting action at one time should not preclude state court adjudication of redistricting matters forever thereafter.

[8] The federal court erroneously believed that the state court intended to implement both congressional and legislative redistricting plans before the Minnesota Legislature resumed its session in January 1992. In fact, the state court was waiting until after the Minnesota Legislature reconvened before it even solicited proposed congressional

federal court lacked authority to interfere with that action. *Atlantic Coast Line R.R.*, 398 U.S. at 296 ("[L]ower federal courts possess no power whatever to sit in direct review of state court decisions.") The proper recourse for parties objecting to the state court's action was to appeal to the Minnesota Court of Appeals or directly to the Minnesota Supreme Court. *Id.*[9]

The federal court exceeded its authority in issuing an injunction against the Minnesota state court redistricting action. The federal court's order should be reversed and the injunction should be dissolved.

III. THE FEDERAL COURT'S REFUSAL TO DEFER TO THE STATE COURT ACTION VIOLATES THE DOCTRINE ESTABLISHED IN *SCOTT v. GERMANO*.

The federal court's injunction not only exceeds its authority and violates principles of comity but also contravenes the mandate issued by this court in *Scott v. Germano*, 381 U.S. 407 (1965) (per curiam). In *Germano*, this Court made clear that the exceptional nature of redistricting requires federal courts to defer to state redistricting efforts, including those undertaken by the state judiciary. *Id.* at 409. The Court declared:

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redistricting plans. App. A-278. The state court proceeded with legislative redistricting based on the fact that the Legislature had enacted a law, the impending precinct caucuses, and on the Governor's sworn affidavit that he would veto any bill aimed at merely correcting the technical defects in chapter 246. App. A-277.

[9] The state court indicated in its November 21, 1991 order that it intended to produce an appealable order in early December. App. A-172. In its December 9, 1991 order, the state court did so, and, but for the injunction, the case now is ripe for appeal. App. A-256.

> We believe that the District Court should have stayed its hand. The power of the judiciary of a State to require valid reapportionment or to formulate a valid redistricting plan has not only been recognized by this Court but appropriate actions by the States in such cases has been specifically encouraged.

Id. *Germano* states a broad rule of deference to states and state courts in redistricting matters which extends to the circumstances of this case.

In *Germano*, parallel challenges to the redistricting plans for the Illinois legislature were brought in state and federal court. Before the state court even began to work on a valid redistricting plan, the state defendants asked the federal court to stay its proceedings. The federal court refused to defer to the parallel state proceedings, in part because the federal action had been filed before the state action had reached the merits. *Germano v. Kerner*, 241 F. Supp. 715, 719 (N.D. Ill.), *vacated sub nom. Scott v. Germano*, 381 U.S. 407 (1965). On direct appeal this Court ordered the federal court to stay its hand unless and until it became clear that the state court would be unable to develop a plan before the elections. *Germano*, 381 U.S. at 409-10.[10]

Deference to state redistricting efforts in the case at hand is even more appropriate than the deference called for

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[10] Federal courts have repeatedly recognized the clear abstention requirement set forth in *Germano* and have deferred to parallel state court redistricting actions. *E.g.*, *Bianchi v. Griffing*, 393 F.2d 457, 461 (2d Cir. 1968); *Badham v. March Fong Eu*, 568 F. Supp. 156, 158 (N.D. Cal.), *aff'd sub nom. Badham v. United States Dist. Court*, 721 F.2d 1170 (9th Cir. 1983); *Avens v. Wright*, 320 F. Supp. 677, 686 (W.D. Va. 1970); *Mahoney v. Burkhardt*, 299 F. Supp. 787, 789 (D.N.J. 1969).

in *Germano*. The Minnesota state court has assumed jurisdiction and rendered what would be a final decision but for the federal court stay. Despite the federal court's contentions to the contrary, it is clear that the agencies of Minnesota, including the Supreme Court of Minnesota, will be able to approve a redistricting plan in time for the 1992 elections. The state court action, which was filed before the federal action, has proceeded rapidly. The state court completed its substantive work in late November and was prepared to issue a redistricting order to allow for appellate review before the Spring of 1992. The federal court's injunction, however, disrupted the timely and orderly operation of Minnesota's judicial system, stopping it in its tracks.

This Court has expressed its approval of state court review of legislative redistricting plans:

> We applaud the willingness of state courts to assume jurisdiction and render decision in cases involving challenges to state legislative apportionment schemes.

Maryland Comm. for Fair Representation v. Tawes, 377 U.S. 656, 674 (1964). The Court also cited a Kansas Supreme Court redistricting decision as a "commendable example of an exercise of judicial responsibility by a state court." *Id.* at 674 n.18 (citing *Harris v. Shanahan*, 192 Kan. 183, 387 P.2d 771 (1963)).

The federal court disagrees with appellants about the meaning of *Germano*. According to the federal court the deference required under *Germano* is owed to state legislatures but not to state courts. The holding in that case, however, is not so limited. In *Germano*, this Court established that federal courts should defer to state courts in redistricting matters. In the case at hand the Legislature

enacted a redistricting plan in May 1991, and the plan was challenged and reviewed by the state court. In either situation the rule is the same: The state court must be given an opportunity to formulate and approve valid redistricting plans without interference from the federal courts. *See, e.g.*, 17A C. WRIGHT, A. MILLER, & E. COOPER, FEDERAL PRACTICE AND PROCEDURE § 4247, at 127.

No one disputes that redistricting is essentially a legislative function and that the judiciary, both state and federal, should give appropriate deference to the Legislature. What is at issue here, however, is the proper relation between our state and federal courts. This Court has emphasized that the federal courts must give the utmost deference to the state courts where redistricting matters are at stake. The federal court has not only refused to defer to the courts of Minnesota, it has prevented the state court from carrying out the very role this Court has encouraged state courts to undertake. The federal court's order violates the important principle established by this Court in *Scott v. Germano* and should be vacated.

IV. THE STAY IS NOT AUTHORIZED BY 28 U.S.C. § 1651(a).

The federal court based its *sua sponte* stay of all state court proceedings on the *All Writs Act*, 28 U.S.C. § 1651(a). That Act has no application to the present case. It provides:

> The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

The Act permits a federal court to issue writs to

protect its own judgments or its own orders. *See, e.g., Pennsylvania Bureau of Correction v. United States Marshals Serv.*, 474 U.S. 34, 40-43 (1985); *Cook v. Peter Kiewit Sons Co.*, 775 F.2d 1030, 1035-36 (9th Cir. 1985), *cert. denied*, 476 U.S. 1183 (1986). The purpose and office of the Act is to protect already issued judgments or orders about to be issued. *Baker v. Gotz*, 415 F. Supp. 1243, 1247 (D. Del.), *aff'd* 546 F.2d 415 (3d Cir. 1976); *see, e.g., Toledo Scale Co. V. Computing Scale Co.*, 261 U.S. 399, 426 (1923). The phrase "in aid of" does not vest or create a general restraining power in the federal courts. *Cook*, 775 F.2d at 1035.

The federal court's issuance of an injunction to "protect its jurisdiction" before it has rendered a judgment is inconsistent with the rule permitting parallel proceedings in concurrent *in personam* actions. *See Laker Airways v. Sabena, Belgian World Airlines*, 731 F.2d 909, 928-29 (D.C. Cir. 1984).

As this Court stated in *Kline v. Burke Construction Co.*, 260 U.S. 226, 230 (1922):

> [A] controversy is not a thing, and a controversy over a mere question of personal liability does not involve the possession or control of a thing, and an action brought to enforce such a liability does not tend to impair or defeat the jurisdiction of the court in which a prior action for the same cause is pending. Each court is free to proceed in its own way and in its own time, without reference to the proceedings in the other court. Whenever a judgment is rendered in one of the courts and pleaded in the other, the effect of that judgment is to be determined by the application of the principles of res judicata by

> the court in which the action is still pending in the orderly exercise of its jurisdiction, as it would determine any other question of fact or law arising in the progress of the case. The rule, therefore, has become generally established that where the action first brought is in personam and seeks only a personal judgment, another action for the same cause in another jurisdiction is not precluded.

In reversing the issuance of an injunction granted under the All Writs Act, the Court in *Kline v. Burke Construction Co.* quoted with approval from *Baltimore & Ohio R.R. v. Wabash R.R. Co.*, 119 Fed. 678, 680-81 (7th Cir. 1902), *cert. denied*, 187 U.S. 650 (1903), as follows:

> It is settled that, when a state court and a court of the United States may each take jurisdiction of a matter, the tribunal whose jurisdiction first attaches holds it, to the exclusion of the other, until its duty is fully performed, and the jurisdiction involved is exhausted. . . . The rule is not only one of comity, to prevent unseemly conflicts between courts whose jurisdiction embraces the same subject and persons, but between state courts and those of the United States it is something more. 'It is a principle of right and law, and therefore of necessity. It leaves nothing to discretion or mere convenience.'

260 U.S. at 231.

This is not a case where federal court judgment has been entered and the state court seeks to prevent the enforcement of the judgment. *See, e.g., Travia v. Lomenzo*, 381 U.S. 431 (1965). In this case, the state court acquired

jurisdiction first, held five hearings, undertook painstaking and detailed review of chapter 246, and was about to reach final judgment when the federal court acted.

In this case there was no need for injunctive relief to protect the federal court's jurisdiction. To the extent that the federal court has jurisdiction over the subject matter of state legislative redistricting, that jurisdiction is concurrent with that of the Minnesota state courts. *See Scott v. Germano*, 381 U.S. 407 (1965) (per curiam). Concurrent federal jurisdiction will not disappear based upon any state court order. On the other hand, granting an injunction against completion of the state court's work defeats the very concept of concurrent jurisdiction.

Issuance of an injunction below was not "agreeable to the uses and principles of law." 28 U.S.C. § 1651(a). It is not agreeable to the principles of comity or federalism. It is not agreeable to the principle set forth in *Scott v. Germano*, 381 U.S. at 409. It is not agreeable to the concept of concurrent jurisdiction. It does not even permit the Minnesota Supreme Court to review the judgment of its Special Redistricting Panel. The injunction granted below is not only unlawful, it is also disrespectful to the Minnesota Supreme Court in not allowing it to review the state court judgment.

The order issued by the district court is premised on the conclusion that the Minnesota state court's decision could not possibly be reviewed by the state Supreme Court in time to be in place by early February. App. A-12. There is no basis in the record or otherwise for this conclusion. The dissenting judge below, a former member of the Minnesota Supreme Court, agrees that, but for the injunction, the Minnesota Supreme Court would have ample time for its appellate review. App. A-18. Furthermore, any final judgment of the federal court would likewise be subject to

appeal, a process that would not begin until February 1992 at the earliest.

The Minnesota State Court decision does not seek to interfere with or impede the imposition or effectuation of any federal court plan. None has been promulgated. Even if such a federal plan had been promulgated, the "principle of federalism" to which the court below gave only lip service, App. A-12, would require that the federal court stay its hand until the "appropriate agencies of the State of [Minnesota], including its Supreme Court, may validly redistrict . . ." *Scott v. Germano*, 381 U.S. at 409. In this case, the injunctive order of the District Court should be vacated and the case remanded with instructions that the District Court retain jurisdiction pending legislative action by the Minnesota Legislature or by the Minnesota Supreme Court on or before February 28, 1992. *See Scranton v. Drew*, 379 U.S. 40 (1964); *Maryland Committee for Fair Representation v. Tawes*, 377 U.S. 656, 674 (1964).

CONCLUSION

This injunction affects, not only a state court in Minnesota, but state courts throughout the country that are just beginning the 1990's round of redistricting. If this injunction is allowed to stand, it will discourage all state courts from becoming involved in redistricting and throw the entire burden on the federal courts. Every appeal of a district court decision will go straight to this Court, bypassing the State's own highest court. This is completely at odds with this Court's oft-repeated concern for the role of state courts in our federal system. The injunction should be vacated forthwith. Therefore, Appellants respectfully request this Court to note probable jurisdiction and to hear this appeal on an expedited basis.

DATED: December ___, 1991
Respectfully submitted,

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(2)

91-1084

No. _____

Supreme Court, U.S.
FILED
DEC 26 1991
OFFICE OF THE CLERK

In the

Supreme Court of the United States

October Term, 1991

Patricia Cotlow, et al.,

Appellants,

v.

James Emison, et al.,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

APPENDIX TO JURISDICTIONAL STATEMENT

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

CIVIL #4-91-202

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,
Plaintiffs,

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,
Intervening Plaintiffs,

v.

Joan Growe, Secretary of State of the State of Minnesota; Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,
Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives;
and the Seventy-seventh
Minnesota State Senate,
Defendant
Intervenors,

and

Patrick O'Connor, Hennepin County
Auditor, individually and on behalf
of all County Auditors of the State of Minnesota,

Defendant
Intervenor.

---

and

Duane Benson, Terry Dempsey,
Delores Hettig, Richard Harmon,
David E. Peterson, E.M. Patricia
Pidcock, and Frank Ringsmuth,
Plaintiffs,

v.

Joan Growe, Secretary of State
of the State of Minnesota,

Defendant,

and

Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendant Intervenor.

ORDER OF STAY OF ALL PROCEDDINGS PENDING BEFORE THE MINNESOTA SPECIAL REDISTRICTING PANEL IN COTLOW V. GROWE NO. C8-91-985

Before CHIEF JUDGE LAY, Circuit Judge, MacLAUGHLIN, District Judge, and MAGNUSON, District Judge.

BY DONALD P. LAY, United States Circuit Judge, and PAUL A. MAGNUSON, United States District Judge.

In January a Minnesota state district court suit was commenced challenging the Constitutionality of the legislative apportionment act, Minn. Stat. §§ 2.019, 2.042-2.702 (1990), and the Congressional apportionment plan set forth in LaComb v. Grove, 541 F.Supp. 145. (D. Minn.

1982)[1] A similar action was brought in the federal district court on March 18, 1991, challenging both the state and congressional apportionment laws.[2] However, on May 18, 1991, the Minnesota legislature passed Chapter 246, S.F. No. 1571, establishing a legislative redistricting plan. Although the Governor attempted to veto this bill, a state district court ruled on August 2, 1991, that Chapter 246 was validly enacted because the Governor had not timely exercised his veto power.[3] No appeal was taken from this decision. A separate suit was thereafter commenced in federal district court on August 9, 1991, by a group of Minnesota voters to declare Chapter 246 unconstitutional.[4] All federal actions were subsequently consolidated.

Oral representations were made in this court by the Minnesota State Attorney General and the majority legislative party that Chapter 246 was unconstitutional, and that the state legislature planned to take further action in January, 1992, to remove the constitutional deficiencies of Chapter 246 by amendment and to enact a valid congressional redistricting plan. These same parties then requested this court not only to defer further proceedings until the legislature acted but also to abstain from further judicial action because of the ongoing state court proceedings.

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[1] Cotlow v. Growe, No. C8-91-985 (Minn. Special Redistricting Panel filed January, 1991). The state district court proceeding was assigned to a three-judge court under the general constitutional authority of the Chief Justice to move and transfer judges from one district to another. See Minn. Stat. § 2.724, subd.1 (1992). No Minnesota law requires the approval of a legislative reapportionment plan by a three-judge court as does the federal statute under 28 U.S.C. § 2284 (1988).

[2] Emison v. Growe, No. 4-91-202 (D. Minn. filed March 18, 1991).

[3] The Seventy-seventh Minn. State Senate v. Carlson, No. C3-91-7547 (Ramsey County Dist. Ct. August 2, 1991).

[4] Benson v. Growe, No. 4-91-603 (D. Minn. filed August 9, 1991).

In our order of August 21, 1991, this court found that under current principles relating to federal abstention, and under the unique circumstances present in this case, we could not abstain simply because there existed ongoing state court Proceedings. At that time we pointed out that the plaintiff class in the original federal suit included minority members alleging federal voting right violations under Section 2 of the Voting Rights Act of 1965. We also noted the time-consuming nature of the full state court process for review of the legislative plan anticipated in January of 1992, and that an ultimate state court appeal could not be procured to constitutionally define the districts in time for the election process to take place in Minnesota. Under such circumstances, we deemed abstention improper. Other reasons were also clear. There was no allegation of ambiguity in state law requiring state clarification. Furthermore, at the time the federal lawsuit was initiated in Benson v. Growe, no constitutional attack had been made on Chapter 246 in the state court.[5] The only state court suit then pending was the constitutional challenge to the 1982 law.

Notwithstanding our order declining to abstain due to the state court proceedings, we refused to go forward with a judicially created redistricting plan because of the state's assurances to the court that the appropriate committees would be meeting in the fall of 1991 and the legislature would pass a constitutional plan no later than January 17, 1992. It was agreed that the legislature's plan would be submitted to this court for review no later than January 20, 1992. Emison v. Growe, No. 4-91-202, at 10-11 (D. Minn.

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[5] Chapter 246 was not deemed a validly enacted state law until August 2, 1991. However, in Cotlow v. Growe, No. C8-91-985, at 3 (Minn. Special Redistricting Panel, Oct. 1, 1991), the state court found Chapter 246 to be unconstitutional.

August 21, 1991) (Memorandum and Order).

In our August 21 order, we observed:

> Notwithstanding our concerns that deference to the state courts would provide difficult time constraints to make certain that a valid plan is implemented by March, 1992, we do recognize that the judiciary whether it be the state court or the federal court, should not substitute its judgment for legislative action in redistricting within a state for purposes of the House or Senate or for purposes of drawing lines for valid congressional districts.

Id. at 8 (emphasis added). We also emphasized the Supreme Court's directive in Reynolds v. Sims, 377 U.S. 533 (1964), that state legislatures have primary jurisdiction over legislative apportionment:

> [R]eapportionment is primarily a matter for legislative consideration and determination, and that judicial relief becomes appropriate only when a legislature fails to reapportion according to federal constitutional requisites in a timely fashion after having had an adequate opportunity to do so.

Reynolds, 377 U.S. at 586 (emphasis added).

We continue to adhere to our order of August 21, 1991, and our subsequent scheduling order of October 5, 1991. We write at this time only because the state court has now deemed it appropriate to reveal, in a preliminary Order dated November 21, 1991, its own plan for redistricting the state legislature. It has done this in advance of any legislative action, and has announced that the court plan will be adopted to allow "an orderly appeal process." Cotlow v.

Growe, No. C8-91-985, at 16 (Minn. Special Redistricting Panel, Nov. 21, 1991) (Preliminary Order for Judgment on Legislative Redistricting). The state court acknowledges that its plan will not be fully implemented if the legislature does pass a reapportionment plan in January, 1992. Id. However, according to the state panel's order, "we are attempting to have final reapportionment in place in advance of the February precinct caucuses and to provide some certainty to local units of government who are anxious to begin their own redistricting process." Id. (emphasis added). The state panel also adds that "[b]y proceeding as swiftly as possible, we intend to provide any time necessary for an orderly appeal Process and to avoid any duplicative litigation in the federal courts."Id. (emphasis added). Thus, we deem it clear that the state court intends to make its order final before the state legislature acts in January, 1992.[6]

The state court reads Scott v. Germano, 381 U.S. 407 (1965) as establishing "that state courts have a primary obligation to review redistricting issues.[7] Cotlow v. Growe,

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[6] At a state court hearing on December 3, 1991, the three judge panel orally announced it would issue its final order adopting a legislative redistricting plan within the week.
The state court also indicated it would adopt a Congressional redistricting plan by the end of December, 1991.

[7] Germano did encourage state courts to act in reapportionment cases where review could take place in ample time before an election. However, as we discussed in our earlier order:

> [W]e find Germano distinguishable from the present case on two grounds. First, in Germano the action had been commenced in state court in April, 1964, almost two years prior to the time of the election. Upon appeal, the Supreme Court of Illinois held the composition of: the Illinois senate invalid on February 4, 1965, but expressed confidence that the General Assembly would perform its duty to enact a constitutionally valid plan during its then current session, which expired on July 1, 1965. It is important to note that the Supreme Court of Illinois

No. C8-91-985, at 16 (Minn. Special Redistricting Panel, November 21, 1991) (Preliminary Order for Judgment on Legislative Redistricting). Nothing in Germano recognizes the state court's "primary obligation" to review reapportionment plans. Rather, it makes clear that the primary responsibility for establishing apportionment plans lies with the legislative process. See Germano, 381 U.S. at 409. Thus, we find the issuance of a state court plan before the legislature has acted to be in direct violation of Scott v. Germano and existing federal law. We further believe that the premature issuance of this plan represents an attempt to

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retained jurisdiction of the case so that it could take such affirmative action as necessary to ensure that a valid plan would be in place for the 1966 election. Thus, one of the distinguishing features of Germano is that the highest court of the state retained jurisdiction so that it would have time to approve a constitutionally valid plan in the event the Illinois General Assembly failed to act.

In addition, it is clear from the Illinois Supreme Court's holding that the General Assembly would have to enact a reapportionment plan by July 1, 1965, which again was more than a year before the 1966 election. In the present situation, the state case is now just beginning in the state district court. A recent scheduling order has been adopted by the state court with an announcement that it will issue a final redistricting plan on December 20, 1991. We recognize that an appeal from such a court ordered plan would lie to either the Minnesota Court of Appeals or to the Minnesota Supreme Court and that the time necessary for such appellate review would certainly move the case into the early or middle part of 1992. More significantly, the process in the state courts fails to anticipate that final legislative action on both the state and congressional districts will not be completed by the state legislature until January, 1992. Emison v. Growe, No. 4-91 202 , at 6 (D. Minn., August 21, 1991) (Memorandum and Order).

improperly influence the state legislative process,[8] and encourages appeals on a hypothetical court plan which may never be implemented if the legislature acts as contemplated in January, 1992.

When this court considered the defendant's motion requesting our abstention in this matter, we were concerned about the ability of the state agencies, including the Supreme Court of Minnesota, to timely approve a legislative plan or to adopt one of their own. In weighing the issue of timeliness, we were aware of the Supreme Court's direction in Scott v. Germano, 381 U.S. at 409, that while the district court should defer to the state agencies, it should nevertheless "enter an order fixing a reasonable time within which the

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[8]See Duxbury v. Donovan, 272 Minn. 424, 432-33, 138 N.W.2d 692, 698 (1965) (discussing Smiley v. Holm, 285 U.S. 355 (1932)):

> Our court read U.S. Const. art. I, § 4, as delegating a Federal responsibility to an entity, i.e., the legislature which consists of the House of Representatives and the Senate. The United States Supreme Court, final arbiter of the meaning of the Federal Constitution, construed art. I, § 4, as assigning the task of redistricting for the purpose of Federal elections not to an entity but to a process, that is, the process by which statutory law is made in the particular state exercising the delegated authority. It is this point of divergence in thinking as between the Minnesota Supreme Court and the United States Supreme Court which accounts for the difference in result. It is correct that the entity described by the words "the legislature" in the State of Minnesota consists of the House of Representatives and the Senate and does not include the governor. The Process which is involved in the enactment of statutory law involves exercise of power delegated to the legislature as an entity either by a majority vote of each house or by a two-thirds majority of each house depending on whether the governor approves or disapproves of the legislation enacted.

appropriate agencies of the State of Illinois, including its Supreme Court, may validly redistrict the Illinois State Senate; provided that the same be accomplished within ample time to permit such plan to be utilized in the 1966 election . . . ." The Supreme Court instructed the federal district court to "retain jurisdiction of the case and in the event a valid reapportionment plan for the State Senate is not timely adopted it may enter such orders as it deems appropriate, including an order for a valid reapportionment plan for the State Senate . . . ." Id. In view of this direction, we reasoned in our August 21, 1991, order that it would be inappropriate to set a date by which the state agencies should act because the legislative process will not be completed until January 20, 1992. All parties agreed that a redistricting plan should be implemented in early February and in any event no later than March 1, 1992. On that basis, we unanimously agreed that it would be improper for us to abstain by reason of the pending state court proceeding. In view of the alleged voting rights allegations contained in the federal pleadings and not involved in the state pleadings, the concession that Chapter 246 is unconstitutional, and the unique time constraints involved, this court indicated it would be prepared to immediately adopt a valid court plan in the event that the legislative process fails to implement a plan by January 20, 1992.

The state court's action of November 21, 1991, apparently was intended to obviate delay in implementing the state court's plan in the event that the legislature does not pass a duly constitutional plan. This action by the state court was no doubt in response to the concern we expressed in our August order that the state processes would take too long. The problem with this premature action, however; is that any final judgment of the state court can only be advisory because it is contingent upon the failure of the state legislative process to implement a plan in late January, 1992. As such, the state court order lacks ripeness for its proposed

appellate review. The order directly interferes with this court's orders of August 21, 1991, and October 5, 1991, requiring utmost deference to the state legislative process under fundamental principles of the United States Constitution as applied through the decisions of the Supreme Court of the United States. See Reynolds v. Sims, 377 U.S. 533, 586 (1964). In light of this court's orders deferring review until the legislative process has run its course in late January of 1992, and its retention of jurisdiction on issues of federal law, the adoption of a plan at this time by the state court does not provide "certainty" that a plan will be "in place" but rather serves to create confusion and concern over its premature finality.

We view the action of the state panel as being in direct violation of federal law and interfering with the continuing jurisdiction of this court. On this basis, with great reluctance, deference, and concern, we now issue an order necessary in aid of our jurisdiction enjoining further issuance of the state court plan and staying the effective date thereof until further order of this court.

We are fully cognizant of the heavy responsibility we face in our decision to issue this order. We have determined that the State of Minnesota, its people, the legislature, and the Governor, must be protected from confusing and possible conflicting orders of a state and federal court. We deem it highly improvident that the state court has proposed a plan of its own before the legislature has had a full and complete opportunity to act. Such a plan, if allowed to stand, clearly contains an intimidating message to the legislature and the Governor. There can be no disagreement that the legislative process should be allowed to proceed, unrestricted and free from judicial influence. The integrity of the legislative process must be protected. A court adopted plan issued before the legislature acts inhibits the legislative process.

If, as in Germano, a legislative plan or a state judicial plan could be timely reviewed by the State Supreme Court and be in place in early February, we would have gladly stayed our hand and deferred to the state agencies implementing such a plan. But it was clear in August, and it is clear today that no such legislative plan can be timely reviewed by the state judicial system to be in place by early February. Therefore, to allow the state courts to act before the legislature convenes places our review procedure in jeopardy and casts uncertainty on the validity of any plan. For these reasons we deem our action necessary. We make clear in issuing this order that we do not approve or disapprove of any plan.

In exercising ancillary jurisdiction to issue a writ "necessary or appropriate in aid of" that jurisdiction, it is not necessary that a final judgment be reached by a federal district court to preserve its jurisdiction or authority over "an ongoing matter [in order to] justify an injunction against actions in the state court." In re Baldwin-United Corp., 770 F.2d 328, 335 (2nd Cir. 1985). The Supreme Court has observed that a federal court may issue an injunctive order under the All-Writs Act "to prevent a state court from so interfering with a federal court's consideration or disposition of a case as to seriously impair the federal court's flexibility and authority to decide that case." Atlantic Coast Line R.R. v. Brotherhood of Locomotive Engrs, 398 U.S. 281, 295 (1970).

Principles of federalism require issuance of this unusual order to protect the exercise of this court's jurisdiction and previous orders requiring deference to the state legislative process and postponing review until the results of such process may be considered in late January, 1992. Assuming the Minnesota courts would allow the state court's advisory order approving a court plan to become final, several issues could arise affecting this court's jurisdiction. If a legislative

plan is enacted in January, 1992, but on review by this court is held to be constitutionally invalid, there would exist uncertainty as to the legal effect of the state court plan. The same jurisdictional concerns would exist in the event the legislature fails to enact a plan. If on appeal to the Minnesota Supreme Court, the proposed advisory state court plan is approved before the legislature acted in January, 1992, questions regarding the finality of that judgment would arise under 28 U.S.C. § 1738. Issues would then arise as to whether this court could exercise its jurisdiction to approve an alternative plan, amend the legislative plan, or approve a separate court plan. With the necessity of having a final constitutional plan in place in early February, 1992, additional litigation over jurisdiction regarding which plan should be adopted would simply add to the confusion and uncertainty of the competing judgments. If no legislative plan is forthcoming, in view of the federal concerns, this court will in timely fashion assume its responsibility to protect under the Constitution of the United States the rights and interests of all parties concerned. The issues before us are not state law questions; they are federal questions involving federal law.

Our action today does not in any way disagree with the principle of encouraging state courts to assume jurisdiction in redistricting cases where there exists ample time for the state judicial machinery to review a legislative plan. We abhor the duplicity of action that has been undertaken in the last several months. Ordinarily this court would defer to an ongoing state court proceeding. Ordinarily comity and deference to state courts would require us to do so. This especially would be true if no voting rights violations were alleged in the federal court, or if there existed ambiguities in state law. When time constraints are involved as here, however, and the federal court determines that state judicial processes will involve undue delay, federal courts are instructed to retain jurisdiction and to act accordingly. See

Scott v. Germano, 381 U.S. 407 (1965). Federal abstention is especially inappropriate when the challenge is made at the eleventh hour. We retain jurisdiction of the subject matter and request the parties to appear on January 27, 1992, at 9:00 a.m. for further consideration of all issues before this court.

IT' IS THEREFORE ORDERED

Pursuant to the All-Writs Act, 28 U.S.C. § 1651 and as authorized by the second enumerated exception to 28 U.S.C. § 2283, necessary in aid of this court's jurisdiction, we hereby enjoin all proceedings in Cotlow v. Growe, No. C8-9-985, pending before the State of Minnesota Special Redistricting Panel. In this regard, all previous orders of the above Special Redistricting Panel and any future orders that panel may issue relating to the adoption of any state redistricting plan or Congressional redistricting plan are hereby stayed until further order of this court. All of the parties involved in the state Proceedings are either parties or intervenors in the consolidated cases pending before this court. Each of the parties and their council in the federal proceeding are hereby enjoined from attempting to enforce or implement any order of the above Minnesota Special Redistricting Panel which has proposed adoption of a reapportionment plan relating to state redistricting or Congressional redistricting until further order of this court. The parties so enjoined are as follows:

James Emison, Judy Fairbanks,
Marie Iverson, Ken Dean, Steve
Castillo, Lew Freeman, and Yao
Lo, individually and on behalf of
all Citizens and Voters of the
State of Minnesota similarly situated,
Plaintiffs,

and

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Intervening Plaintiffs,

and

Joan Growe, Secretary of State of the State of Minnesota; Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendants,

and

The Seventy-seventh Minnesota State House of Representatives; and the Seventy-seventh Minnesota State Senate,

Defendant Intervenors,

and

Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendant Intervenor.

Duane Benson, Terry Dempsey,
Delores Hettig, Richard Harmon,
David E. Peterson, E.M. Patricia
Pidcock, and Frank Ringsmuth,
Plaintiffs.

Each party, through their respective counsel, shall be given notice forthwith of this court's order. A copy of this court's order shall be served on the Minnesota Special Redistricting Panel by serving the Clerk of the Appellate Courts, Minnesota Judicial Center. Notice of this order shall also be served upon the Governor of the State of Minnesota, Arnold Carlson, and Hubert Humphrey III, Attorney General of the State of Minnesota.

LET JUDGMENT BE ENTERED ACCORDINGLY.

MacLaughlin, J., dissenting.

I do not agree that the state court should be enjoined from proceeding with its plan of reapportionment. I see no reason why that court is not fully able to consider and decide the reapportionment issues presented to it.

In addition, the November 21, 1991 order issued by the state court seems completely appropriate both as to the law and as to the reapportionment plan it proposes.[1] Clearly Chapter 246 represents state policy which, in my judgment, must be the cornerstone of any new reapportionment plan. The amendments made to Chapter 246 by the state court, subject to comment by the parties and review by that court after its proposed hearing on December 3, 1991, are an attempt by the

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[1] In a letter to the state court panel dated October 15, 1991, Mr. William J. Davis, Chair of the Political Action Committee for Minneapolis and the Minnesota/Dakotas State Conference of the National Association for the Advancement of Colored People states:

> NAACP representatives from every branch in Minnesota were in attendance [at the NAACP Annual Statewide meeting]. After a thorough review the group voted unanimously to endorse the Legislature's Plan [the plan of the defendant intervenor herein].
>
> It is our belief and feeling that this plan provides the greatest opportunity for "People of Color" to be elected during the upcoming decade. Furthermore, we realize that we will be "locked out or locked in" for the balance of the century. We urge the court to adopt the legislative redistricting plan proposed by the Legislature.

This opinion of the NAACP regarding the defendant intervenor's plan seems to me to be significant and compelling.

state court to follow the state policy provided in Chapter 246.[2]

Further, and overriding any other considerations, it seems clear to me that this Court has no legal authority to issue the injunction. The Anti-Injunction Act provides that

> A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments. 28 U.S.C. § 2283.

The Act establishes a general prohibition against federal interference with state court jurisdiction, allowing a federal court to enjoin a state court only if one of the three statutory exceptions applies. Because the statutory prohibition against federal injunctions of state court proceedings "rests on the fundamental constitutional independence of the States and their courts, the exceptions should not be enlarged by loose statutory construction." Atlantic Coast Line Railroad Co. v. Brotherhood of Locomotive Engineers, 398 U.S. 281, 287 (1970).

Thus, the United States Supreme Court has held that "[p]roceedings in state courts should normally be allowed to continue unimpaired by intervention of the lower federal courts, with relief from error, if any, through the

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[2] Perhaps it would have been wiser for the state court to delay the adoption of any final plan until the state has acted, that is no later than January 17, 1992, as represented to us by the Legislature. In my judgment, assuming speedy action by the Minnesota Supreme Court which I believe would be forthcoming, sufficient time would still have been available for an appropriate appeal of the state court's plan.

state appellate court and ultimately this Court." Id. Any doubts regarding the propriety of a federal injunction must be resolved in favor of permitting the state courts to resolve the issues before them. Id. at 297. The majority believes that its injunction is necessary to protect this court's jurisdiction and its orders of August 21 and October 5, and that the injunction therefore falls within the exceptions to the Anti-Injunction Act. I cannot agree, however, that the injunction is permissible under the Act.

An injunction is "necessary in aid of jurisdiction" if it is required to prevent a state court from seriously impairing the federal court's authority to decide a case before it. Where a state court and a federal court have concurrent jurisdiction, neither court is free to prevent parties from simultaneously pursuing claims in both courts, and a state court's assumption of jurisdiction does not hinder the federal court's jurisdiction so as to make an injunction necessary to aid that jurisdiction. Id. at 295-96. Both this court and the state court have jurisdiction over the redistricting claims; both courts are thus free to consider and decide the issue, and the state court order in no way interferes with this court's authority to review the constitutionality of the legislature's redistricting plan in accordance with its previous orders.

Nor is injunctive relief warranted to effectuate this Court's August 21st and October 5th orders. The exception allowing a federal court to enjoin a state court when necessary to "protect or effectuate its judgments" was intended to prevent state court relitigation of issues that had already been ruled upon in federal court. Chick Kam Choo v. Exxon Corp., 108 S.Ct. 1684, 1690 (1988). Thus, "an essential prerequisite for applying the relitigation exception is that the claims or issues which

the federal injunction insulates from litigation in state proceedings actually have been decided by the federal court." Id. This court has yet to decide the redistricting issues before it, and therefore lacks authority under the Anti-Injunction Act to preclude the state court from ruling on those issues. The Anti-Injunction Act narrowly circumscribes the circumstances in which federal courts may interfere with state court proceedings.[3] In my opinion, this case does not fall within the strictures of the Act.

This injunction is issued without any advance notice to any of the parties or to the state court, without any hearing, and without the benefit of briefs or oral argument. Further, I believe there is no legal justification for the injunction. Therefore, I respectfully dissent.

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[3] While not directly applicable here (because the state court has not interfered with federal rights or preempted federal law), the Supreme Court has issued this warning, "... a federal court does not have inherent power to ignore the limitations of § 2283 and to enjoin state court proceedings merely because those proceedings interfere with a protected federal right or invade an area preempted by federal law, even when the interference is unmistakably clear." Atlantic Coast Line Railroad, 398 U.S. at 294.

Judges MacLaughlin, Lay and Magnuson

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

JUDGMENT IN A CIVIL CASE

Civil File No. 4-91-202

James Emison, et al.

v.

Joan Growe, Secretary of State
of the State of Minnesota, et al.

Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED THAT:

Judgment be entered enjoining proceedings in Cotlow v. Growe, No. C8-91-985, pending before the State of Minnesota Special Redistricting Panel, and any future orders that panel may issue relating to the adoption of any state redistricting plan or congressional redistricting plan are hereby stayed until further order of this court. Each of the parties and their counsel in the federal proceeding are hereby enjoined from attempting to enforce or implement any order of the above Minnesota

Special Redistricting Panel which has proposed adoption of a reapportionment plan relating to state redistricting or congressional redistricting until further order of this court.

December 5, 1991	Francis E. Dosel
Date	Clerk

/S/
(By) Deputy Clerk (Shirley J. Hanson)

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

Joan Growe, Secretary of State of the State of Minnesota; Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendants.

DESIGNATION OF THREE - JUDGE DISTRICT COURT

Court File No. Civ. 4-91-202

****

Upon the application of the requesting judge, The Honorable Harry H. MacLaughlin, for the designation of a three-judge court to hear and determine the above action, I find that the action is one required by Act of Congress to be heard and determined by a three-judge district court;

Therefore, pursuant to 28 U.S.C. § 2284(b)(1), I, Donald P. Lay, Chief Judge of the United States Court of Appeals for the Eighth Circuit, hereby designate the Honorable Donald P. Lay, United States Circuit Court Judge, and the

Honorable Paul Magnuson, United States District Court Judge, to serve with the Honorable Harry H. MacLaughlin, United States District Court Judge, as members of, and with him to constitute the District Court to hear and determine this action.

DATED: April 8, 1991 /s/
Donald P. Lay, Chief Judge
Eighth Circuit

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
OFFICE OF THE CLERK

514 U.S. COURTHOUSE
110 SOUTH 4TH STREET
MINNEAPOLIS, MN 55401

FRANCIS E. DOSAL. CLERK
(612) 348-1821
FTS: 777-1821

May 6th, 1991

Re: James Emison, et al -vs- Joan Growe, et al Civil 4-91-202

Dear Counsel:

As you know the above captioned case has been designated to be tried by a Three Judge Panel. Because of the peculiarity of this case, we are requesting that the Clerk's Office be provided with an original and five copies of every pleading that is filed on this matter.

If you have any questions, please don't hesitate to contact us.

Thank you.

Truly yours,

/s/

Luis R. Borges
Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

James Emison, Judy Fairbanks, Marie Everson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

v.

Joan Growe, Secretary of State of the State of Minnesota; and Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendants.

Cv. No. 4-91-202

ORDER

The above matter was before the undersigned United States Magistrate Judge on the motion of the Seventy-seventh Minnesota State House of Representatives and

the Seventy-seventh Minnesota State Senate to intervene as defendants in this matter. The undersigned having been advised that the parties to this matter either are not opposed to, or take no position with respect to, the motion to intervene,

IT IS HEREBY ORDERED that the motion of the Seventy-seventh Minnesota State House of Representatives and the Seventy-seventh Minnesota State Senate to intervene in this matter is GRANTED.

DATED: May 15, 1991

/s/
FRANKLIN L. NOEL
United States Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

NOTICE OF PRETRIAL STATUS AND SCHEDULING CONFERENCE

James Emison, et al. vs. Joan Growe, Secretary of the State of Minnesota, et al.
Civil 4-91-202

Bruce D. Willis & Benson K. Whitney
John R. Tunheim
Robert A. Nicklaus
Michael A. Fahey
John D. French & Michael L. Cheever

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a pretrial status and scheduling conference will be held on Monday, July 22, 1991 at 3:30 p.m. in Courtroom #3, Seventh Floor, 316 North Robert Street, St. Paul, Minnesota, 55101, before the Honorable Donald P. Lay, the Honorable Harry H. MacLaughlin and the Honorable Paul A. Magnuson.

At least five days prior to the conference, counsel shall submit a complete written statement of the case to the Clerk of the Court. Please submit an original and three copies of the statement. Opposing counsel should also be served at least five days prior to the conference. The statement of the case shall include:

(1) a concise statement of the facts;
(2) the specific legal or statutory basis for the claim(s) or defense(s);

(3) names of involved insurance companies, if any;
(4) whether a timely jury demand has been made or will be made in the future;
(5) estimated length of trial, including voir dire;
(6) estimated length of time needed for discovery;
(7) any other appropriate topics.

Consideration will be given at the conference to settlement, stipulations, pretrial scheduling, anticipated trial schedule and other matters suggested by the Court and counsel. Pretrial scheduling will include the following deadlines: third party actions, amendments to pleadings, discovery completion, non-dispositive motions and dispositive motions.

Counsel who will be trying the case should make every effort to be present at the conference. If this is not possible, substitute counsel should be arranged. Counsel attending the conference must have settlement authority or be accompanied by their clients to facilitate settlement.

Dated: /s/
Michael M. Chutich
Calendar Clerk to Judge MacLaughlin

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

v.

Joan Growe, Secretary of State of the State of Minnesota; and Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota; the Seventh-seventh Minnesota State House of Representatives; and the Seventy-seventh Minnesota State Senate,

Defendants.

Civil File No. 4-91-202

O R D E R

Before: LAY, Circuit Judge, MacLAUGHLIN and MAGNUSON, District Judges.

A preliminary pretrial hearing was held in this case on July 22, 1991. After oral presentations by the respective counsel, the court entered the following order: T h e question of a stay or abstention by the federal court pending legislative action or state court proceedings involving similar issues shall be processed as follows:

1. All motions for stay and motions for this court to abstain pending further proceedings by the state legislature and state court shall be filed, with accompanying briefs, on or before August 2, 1991;

2. All objections to said motions for stay or abstention, with accompanying briefs, shall be filed on or before August 9, 1991; and

3. The movants may file a reply brief on or before August 16, 1991.

IT IS SO ORDERED.

DATED: July 23, 1991.

FOR THE COURT:

/s/
DONALD P. LAY, Chief Judge
US. Court of Appeals for the
Eighth Circuit, sitting by
special designation

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

James Emison, et al.

v. Civil No. 4-91-202

Joan Growe, Secretary of State
of the State of Minnesota, et al.

Duane Benson, et al.,

v. Civil No. 4-91-603
from DSD
to HHM

Joan Growe, Secretary of State
of the State of Minnesota, et al.

ORDER FOR REASSIGNMENT OF COMPANION CASE

Case No. 4-91-202 having been assigned to Judge Harry H. MacLaughlin and Case No. 4-91-603 having later been assigned to Judge David S. Doty, and said matters being companion cases,

IT IS HEREBY ORDERED that Case No. 4-91-603

be assigned to Judge MacLaughlin, nunc pro tunc, without use of the case assignment system.

IT IS FURTHER ORDERED pursuant to this Court's Assignment of Cases Order dated June 11, 1991, the Clerk of Court shall void and reuse a card on the Civil Rights list of the automated case assignment system.

IT IS FINALLY ORDERED that a copy of this order shall be filed in each of the above respective files.

Dated: August 16, 1991 /s/
Harry H. MacLaughlin, Judge
United States District Court

Dated: August 16, 1991 /s/
David S. Doty, Judge
United States District Court

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Civil File No. 4-91-202

ORDER

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

and

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Intervening Plaintiffs,

vs.

Joan Growe, Secretary of State of the State of Minnesota; Mark Lundgren, Carver County

Auditor, individually and on
behalf of all County Auditors
of the State of Minnesota,
Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives
and the Seventy-seventh Minnesota
State Senate,
Defendant-Intervenors.

AND

Court File No. 4-91-603

Duane Benson, Terry Dempsey,
Delores Hettig, Richard Harmon,
David E. Peterson, E.M. Patricia
Pidcock, and Frank Ringsmuth,
Plaintiffs,

vs.

Joan Growe, Secretary of State
of the State of Minnesota,
Defendant.

Pursuant to memorandum opinion filed this date, this

court orders as follows:

1. The motion for intervention by Patricia Cotlow, et al. is hereby granted.

2. The action filed by Benson, Dempsey, et al. v. Growe, et al. (Court File No. 4-91-603) is hereby consolidated with the action entitled Emison, et al. v. Growe, et al. (Court File No. 4-91-202).

3. The motion to defer pending further legislative proceeding in the above entitled actions is hereby granted.

4. The motion to abstain pending further state proceedings is hereby denied.

5. The motion to enjoin pending state court proceedings is hereby denied.

6. The redistricting plan for the Minnesota House and Minnesota Senate as well as the congressional districts for the State of Minnesota shall be presented to the court on or before January 20, 1992.

IT IS SO ORDERED.

DATED: August 21, 1991

/s/
Donald P. Lay, U.S. Court of Appeals for the 8th Circuit

/s/
Harry H. MacLaughlin, U.S. District Court

/s/
Paul Magnuson, U.s. District Court

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Civil File No. 4-91-202

MEMORANDUM OPINION

James Emison, Judy Fairbanks, Marie Iverson & Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

and

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota Similarly situated,

Intervening Plaintiffs,

vs.

Joan Growe, Secretary of State off the State of Minnesota; Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives;
and the Seventy-seventh Minnesota
State Senate,
Defendant Intervenors.

AND

Court File No. 4-91-603

Duane Benson, Terry Dempsey,
Delores Hettig, Richard Harmon,
David E. Peterson, E.M. Patricia
Pidcock, and Frank Ringsmuth,
Plaintiffs,

vs.

Joan Growe, Secretary of State
of the State of Minnesota,

Defendant.

Before CHIEF JUDGE LAY, Circuit Judge, MacLAUGHLIN, District Judge, and MAGNUSON, District Judge.

PER CURIAM

This action was filed on March 18, 1991, by plaintiffs on behalf of a class of Minnesota citizens and voters. Plaintiffs allege that the current legislative and congressional districts within the State of Minnesota violate the Fourteenth Amendment of the United States Constitution as well as Section 2 of the Voting Rights Act of 1965, as mended, 42 U.S.C. § 1973 (1988).[1]

Among the plaintiffs bringing this action are a Native-American, an African-American, an Hispanic-American, and an Asian-American. The defendants are the Secretary of State of Minnesota, Joan Growe, and a proposed class of county auditors. The defendant intervenors in the case are the Seventy-seventh Minnesota State House of Representatives and the Seventy-seventh Minnesota State Senate. The plaintiff intervenors are a group of Minnesota voters and citizen who commenced an action in state court, asserting that Minnesota's legislative and congressional districts are violative of the state and federal Constitutions. Pursuant to 28 U.S.C. § 2284(a), (b)(1) (1988), a three-judge panel was designated by the Chief Judge of the circuit to hear and decide the case.

On January 24, 1991, a group of Minnesota citizens and voters commenced a redistricting action in Minnesota state court, Cotlow v. Growe, State of Minnesota, Special District Apportionment Panel (MX 91-001562), previously filed in Hennepin County District Court, State of Minnesota (Court File No. 91-1562). As indicated, this group of plaintiffs has petitioned the court to intervene in the present action and by this memorandum order, that petition for intervention is

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[1]The plaintiffs claim that fragmentation of the White Earth and Red Lake Reservations into multiple legislative districts under the current plan unlawfully dilutes the Native-American vote. They further allege that the current plan of state legislative districts unnecessarily dilutes the vote of the minority population residing in District 60(b) and adjacent districts.

granted.

During its 1991 session, the Minnesota Legislature passed Chapter 246, S.F. No. 1571, a bill redrawing the state legislative districts.[2] On August 2, 1991, a Minnesota district court held that the Governor of Minnesota failed to properly veto Chapter 246 and consequently allowed that bill to become law. Seventy-seventh Minnesota State Senate and Seventy-seventh Minnesota State House of Representatives v. Carlson, No. C3-91-7547 (Minn. Dist. Ct., 2d Judicial Dist., Aug. 2, 1991). On August 9, 1991, a new federal action was commenced by another group of Minnesota voters who claim that the plan of legislative districts in Chapter 246 violates both the Minnesota and the United States Constitution. See Benson v. Growe, No. 4-91-603 (D. Minn.). That case is now ordered consolidated with the first federal action.

According to the state defendants, the redistricting committees of both the House and Senate plan to meet by September, 1991 to refine Chapter 246 to remove any possible constitutional deficiencies in the bill. The defendants assert that the Minnesota Legislature expects to pass legislation correcting Chapter 246 in January, 1992. The defendants anticipate that the Governor will either approve the bill or the Legislature will override a veto. They claim that the legislative districts will be established in January, 1992. The defendants also assert that the Legislature expects to enact congressional redistricting legislation in January, 1992. It is urged that this court defer not only to the state court proceedings but also to the legislative action that will take place in January, 1992.

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[2]This bill does not attempt to redistrict congressional lines. According to the state defendants, congressional redistricting will not be addressed by the state legislature until January, 1992.

The Secretary of State's brief indicates that legislative and congressional redistricting must be completed by March 24, 1992, in order for the 1992 elections to proceed smoothly. This date is twenty-five weeks before the state primary. According to the Secretary of State, this will allow the local governments an opportunity to redraw precinct lines which, of course, cannot be done before the legislature has been reapportioned. See 1991 Minn. Laws Ch. 349 (H.F. 635). According to the Secretary of State, this deadline also gives the candidate nomination process enough time to work and allows candidates to fulfill their six month residency requirements.

Deference

The threshold question before our court is the motion by the party defendants and the intervenors that this court should defer further action pending legislative approval of a valid redistricting plan and should allow the state judiciary time to assess such plan and either approve it or draw up a plan of its own. The primary authority for this motion is the Supreme Court's decision in Scott v. Germano, 381 U.S. 407 (1965). In Germano, the districting plans for the Illinois Senate were challenged in both federal and state court. The Supreme Court stated as follows:

> We believe that the District Court should have stayed its hand. The power of the judiciary of a State to require valid reapportionment or to formulate a valid redistricting plan has not only been recognized by this court but appropriate action by the States in such cases has been specifically encouraged. . . .
>
> . . . The case is remanded with directions that the District Court enter an order fixing a reasonable time within which the appropriate agencies of the State of Illinois, including its Supreme Court, may validly

> redistrict the Illinois State Senate; provided that the same be accomplished within ample time to permit such plan to be utilized in the 1966 election of the members of the State Senate, in accordance with the provisions of the Illinois election law.

Id. at 409. In directing the district court to abstain, the supreme Court stated:

> The District court shall retain Jurisdiction of the case and in the event a valid reapportionment plan for the State Senate is not timely adopted it may enter such orders as it deems appropriate, including an order for a valid reapportionment plan for the State Senate or an order directing that its members be elected at large pending a valid reapportionment by the State itself.

Id. at 409-10.

As the Germano Court pointed out in its directive to the district court, the plan had to be timely adopted and the district court was to retain jurisdiction until a valid plan had been adopted. All the parties in the present case recognize that time is of the essence in making certain that a valid plan is in place in time for the 1992 elections of the members of the State Senate and House, in accordance with the provisions of the Minnesota election laws.

However, we find Germano distinguishable from the present case on two grounds. First, in Germano the action had been commenced in state court in April, 1964, almost two years prior to the time of the election. Upon appeal, the Supreme Court of Illinois held the composition of the Illinois Senate invalid on February 4, 1965, but expressed confidence that the General Assembly would perform its duty to enact a constitutionally valid plan during its then current session, which expired on July 1, 1965. It is important to note that

the Supreme Court of Illinois retained Jurisdiction of the case so that it could take such affirmative action as necessary to ensure that a valid plan would be in place for the 1966 election. Thus, one of the distinguishing features of Germano is that the highest court of the state retained jurisdiction so that it would have time to approve a constitutionally valid plan in the event the Illinois General Assembly failed to act.

In addition, it is clear from the Illinois Supreme Court's holding that the General Assembly would have to enact a reapportionment plan by July 1, 1965, which again was more than a year before the 1966 election. In the present situation, the state case is now just beginning in the state district court. A recent scheduling order has been adopted by the state court with an announcement that it will issue a final redistricting plan on December 20, 1991. We recognize that an appeal from such a court ordered plan would lie to either the Minnesota Court of Appeals or to the Minnesota Supreme Court and that the time necessary for such appellate review would certainly move the case into the early or middle part of 1992. More significantly, the process in the state courts fails to anticipate that final legislative action on both the state and congressional districts will not be completed by the state legislature until January, 1992.

We also note that in the present federal proceedings a Native-American voter and voters from other minority groups have alleged that the current legislative and congressional districts violate Section 2 of the Voting Rights Act of 1965. Section 2 reads as follows:

> (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right

> of any citizen of the United states to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, as provided in subsection (b) of this section.

42 U.S.C. § 1973(a) (1988). The state court action does not contain similar allegations. Even if the state court petition is amended to include such allegations, we recognize that in general minority citizens have the right to come to federal court to assert their federal claims and do not have to exhaust state remedies to vindicate their right to have & federal court adjudicate their claims. See Lane v. Wilson, 307 U.S. 268, 274 (1939) (holding that a party generally may resort to federal court without having first exhausted the Judicial remedies of the state courts). Although we recognize that state courts are the final expositors of state law, we also recognize the primacy of federal courts in resolving questions of federal law. See England v. Louisiana State Board of Medical Examiners, 375 U.S. 411, 415-16 (1964).

The present action implicates the Voting Rights Act of 1965. In Harman v. Forssenius, 380 U.S. 528 (1965), the Supreme Court held that a district court did not abuse its discretion in refusing to abstain to allow the Virginia courts to determine whether a Virginia statute impaired the right to vote in federal elections. The Court indicated that abstention is improper in voting rights cases, stating that "[t]he right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.'" Id. at 537 (quoting Reynolds v. Sims, 377 U.S. 533, 555 (1964)). The court also noted that "[t]he right [to vote] is fundamental 'because [it is] preservative of all rights.'" Id. (quoting Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886)).

Moreover, the Court recognized the dangers associated

with applying traditional abstention principles in voting rights cases. The Court stated that "[given] the importance and immediacy of the problem, and the delay inherent in referring questions of state law to state tribunals, it is evident that the District Court did not abuse its discretion in refusing to abstain." Id. (footnote omitted); see also Edwards v. Sammons, 437 F.2d 1240, 1244 (5th Cir. 1971) (indicating that the delay caused by abstention is not to be countenanced in cases involving the right to vote).

Whatever proposed plan the state agencies ultimately submit must not violate the federal voting rights of the claimants. Accordingly, this court must appraise any reapportionment plan in this light.

Notwithstanding our concerns that deference to the state courts would provide difficult time constraints to make certain that a valid plan is implemented by March, 1992, we do recognize that the Judiciary, whether it be the state court or the federal court, should not substitute its judgment for legislative action in redistricting within a state for purposes, of the House or Senate or for purposes of drawing lines, for valid congressional districts.

Several cases emphasize the proper deference to be given to the legislative function in this instance. In fact, court drawn plans require even greater scrutiny than legislative plans. See Wise v. Lipscomb, 437 U.S. 535, 540 (1978). The Supreme Court stated in White v. Weiser, 412 U.S. 783 (1973):

> From the beginning, we have recognized that "reapportionment is primarily a matter for legislative consideration and determination, and that judicial relief becomes appropriate only when a legislature fails to reapportion according to federal constitutional requisites in a timely fashion after having had an

> adequate opportunity to do so." Reynolds v. Sims, 377 U.S. 533, 586 (1964). . . . We have adhered to the view that state legislatures have "primary jurisdiction" over legislative reapportionment. See Maryland Committee for Fair Representation v. Tawes, 377 U.S. 656, 676 (1964); Davis v. Mann, 377 U.S. 678, 693 (1964); Roman v. Sincock, 377 U.S. 695, 709-710, 711-712 (1964); Burns v. Richardson, 384 U.S., at 84-85; Ely v. Klahr, 403 U.S. 108, 114 (1971); Whitcomb v. Chavis, 403 U.S. 124, 160-161 (1971); Sixty-seventh Minnesota State Senate v. Beens, 406 U.S. 187, 195-201 (1972); Mahan v. Howell, 410 U.S., at 327. Just as a federal district court, in the context of legislative reapportionment, should follow the policies and preferences of the State, as expressed in statutory and constitutional provisions or in the reapportionment plans proposed by the state legislature, whenever adherence to state policy does not detract from the requirements of the Federal constitution, we hold that a district court should similarly honor state policies in the context of congressional reapportionment. In fashioning a reapportionment plan or in choosing among plans, a district court should not pre-empt the legislative task nor "intrude upon state policy any more than necessary." Whitcomb v. Chavis, supra, at 160.

Id. at 794-95; see also Upham v. Seaman, 456 U.S. 37, 41-42 (1982). In Weiser, the Court emphasized that a district court should not choose between two possible redistricting plans without giving deference to the plan proposed by the state legislature. Id. at 792-96.

The Legislature and the Secretary of State urge this court to give deference to legislative function. We interpret as requiring both state and federal courts to defer to the legislature to draw a valid redistricting plan unless the legislature fails to act in a timely fashion. The state

defendants assert that Chapter 246 contains the framework of a reapportionment plan that only needs refinement by the Legislature to be valid. The defendants claim that legislative committees will meet in the fall of 1991 to devise a plan that will be presented to the Legislature in January, 1992. We feel this court should refrain from adopting a court ordered plan to allow the legislative function to take place. We, therefore, direct the state defendants to submit both a legislative and congressional plan to this court on or before January 20, 1992. This court will hold hearings shortly thereafter to ascertain the validity of the plans so that both the legislative and congressional plans can be in place in March, 1992.

We adopt such a schedule and exercise our discretionary power to defer to the state Legislature in the present case under the good faith allegation made by the Minnesota Legislature. We recognize that the newly filed federal suit challenging Chapter 246 is now before the court. However, we feel that the Legislature should be allowed the opportunity to revise and amend the bill in January, 1992. Under the circumstances, we conclude that it is premature to hold hearings on the validity of the present legislative plan. We will wait until January 21, 1992 to consider the constitutional validity of the plans.

In light of the time constraints and the important federal rights at stake, we should not abstain and defer to the state courts. Under the circumstances, it would be difficult for the state judicial processes, including the Minnesota supreme Court, to approve the new legislative plan by March, 1992. Even assuming the state court continues to exercise its jurisdiction over the case, whatever plan that it approves would have to be reviewed by this court in terms of the challenges made to the plan under Section 2 of the Voting Rights Act. We are realistic enough to recognize that such a challenge would take considerable time and, therefore, to

completely abstain in this case until after the state court acts on the plan proposed by the legislature on or before January 20, 1992, would not be realistic. Cf. Skolnick v. State Electoral Board of Illinois, 336 F. Supp. 839, 870-71 (1971) (enjoining state Supreme Court mandamus action which sought to modify or set aside the federal court's order adopting a congressional redistricting plan because the nominating petitions were due within four or five weeks).

In deferring to the Legislature and its proposed time frame, we recognize the contingency that the state legislature may not be able to draw up a constitutional plan. For the court to wait until January 21, 1992, to appraise the constitutionality of such a plan and not to have the machinery established to effect a court plan would necessitate a radical departure from Minnesota law and might require legislative and congressional officials to be elected at large. No one wants to reach such a state of emergency. On this basis, this court, recognizing the contingency that a legislative plan may not be constitutionally valid, will soon appoint Masters to appraise both the state legislative districts and the congressional districts. We hereby direct the parties to submit any criteria on which they feel district lines should be drawn to this court no later than October 1, 1991. The court may wish to schedule hearings concerning these criteria after October 1, 1991. However, we wish to point out that this course of action by the court is simply a contingent one that will result in a court ordered plan only in the event that the state legislative body is unable to effect a plan that complies with the United States Constitution and with Section 2 of the voting Rights Act on or before January 20, 1992.

The motion to defer for further legislative action is hereby granted. The motion of the state defendants to otherwise completely defer from review of any legislative plan is denied. The state parties are directed to present the

legislative plan for state and congressional redistricting to this court on or before January 20, 1992. This court retains jurisdiction to approve or disapprove of such plan at that time, or to take any other appropriate action deemed necessary.

In view of our opinion deferring to state legislative action, the plaintiffs' motion requesting this court to enjoin the state courts is hereby denied.

IT IS SO ORDERED.

DATED: August 21, 1991

/s/
Donald P. Lay,
U.S. Court of Appeals
for the 8th Circuit

/s/
Harry H. MacLaughlin, U.S.
District Court

/s/
Paul Magnuson,
U.S.District Court

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

and

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Intervening Plaintiffs,

vs.

Joan Growe, Secretary of State of the State of Minnesota; Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives;
and the Seventy-seventh Minnesota
State Senate,

Defendant-Intervenors.

Civil File No. 4-91-202

AND

Duane Benson, Terry Dempsey,
Delores Hettig, Richard Harmon,
David E. Peterson, E.M. Patricia
Pidcock, and Frank Ringsmuth,
Plaintiffs,

vs.

Joan Growe, Secretary of State
of the State of Minnesota,

Defendant.

Court File No. 4-91-603

ORDER APPOINTING SPECIAL MASTERS

Before CHIEF JUDGE LAY, Circuit Judge, MacLAUGHLIN, District Judge, and MAGNUSON, District Judge.

IT IS HEREBY ORDERED That Joseph Dixon, John Hoyt, and Gregory L. Wilmes are appointed as Special Masters in the above entitled actions pursuant to F.R. Civ. P. 53.

The appointment as Special Masters is effective commencing September 3, 1991. The Special Masters are authorized to assist the court in evaluating the reapportionment plan to be submitted by the parties in the redistricting of state legislative districts and congressional districts in the State of Minnesota. The Special Masters shall perform whatever general and specific duties the three-judge court requests them to carry out in the court's duty to pass upon the constitutional plan of reapportionment.

The Special Masters are authorized to employ whatever technical and clerical assistance deemed necessary to the proper performance of their duties. The compensation to the Special Masters and supporting personnel shall be fixed by the court and shall be taxed to the State of Minnesota at the appropriate time.

DATED: August 27, 1991.

BY THE COURT:

/s/
Donald P. Lay
U.S. Circuit Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

IN RE: REAPPORTIONMENT LITIGATION

James Emison, et al,
Plaintiffs,

v.

Joan Anderson Growe, Secretary of State
of State of Minnesota, et al,
Defendants.

Civil #4-91-202

Duane Benson, et al,
Plaintiffs,

v.

Joan Growe, Secretary of State
of State of Minnesota et al,
Defendants.

Civil #4-91-603

ORDER ESTABLISHING MASTER DOCKET

These cases having been consolidated August 21, 1991, pursuant to order of Judge Donald P. Lay, Judge Harry H. MacLaughlin and Judge Paul A. Magnuson,

IT IS HEREBY ORDERED THAT

1) The clerk shall establish and maintain a master docket and case file under Civil Action Number 4-91-202, and pleadings should be captioned "James Emison etal vs. Joan Anderson Growe, Secretary of State of the State of Minnesota, etal", hereafter referred to as the Master Docket.

2) All pleadings previously filed and docketed in and pertaining only to Civil 4-91-603 will be re-docketed in the Master Docket, and henceforth all pleadings will be filed in the Master Docket.

3) It shall be the responsibility of the party filing such pleadings, or any other papers, to file **an original and four copies** of any such document with the Clerk of Court. The copies will be forwarded by the Clerk of Court to the Three Judge Panel and the Special Master Panel.

4) Reference to any prior order of this Court in any document filed shall include the document number of the order to which it refers.

5) The Local Rules of the United States District Court for the District of Minnesota shall govern all further proceedings in this litigation except as modified herein or by further order of this Court.

DATED: September 25, 1991

/s/
Judge Harry H. MacLaughlin
U.S. District Court

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

IN RE

REAPPORTIONMENT LITIGATION

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

and

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Intervening Plaintiffs,

v.

Joan Growe, Secretary of State
of the State of Minnesota;
Mark Lundgren, Carver County
Auditor, individually and on
behalf of all County Auditors
of the State of Minnesota,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives
and the Seventy-seventh
Minnesota State Senate,

Defendant
Intervenors,

and

Patrick O'Connor, Hennepin
County Auditor, individually
and on behalf of all County
Auditors of the State of
Minnesota,

Defendant
Intervenor.

AND

Duane Benson, Terry Dempsey,

Delores Hettig, Richard Harmon, David E. Peterson, E.M. Patricia Pidcock, and Frank Rinsgmuth,

Plaintiffs,

v.

Joan Growe, Secretary of State of the State of Minnesota,

Defendant,

and

Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendant Intervenor.

MASTER DOCKET
CIVIL 4-91-202

ORDER

The Hennepin County Auditor, Patrick O'Connor, individually and on behalf of all county auditors of the State of Minnesota has moved this Court for leave to intervene as a defendant in the above-captioned consolidated cases.

After full consideration, the motion of the Hennepin County Auditor, Patrick O'Connor, individually and on behalf of all county auditors of the State of Minnesota is hereby granted.

Judge Harry H. MacLaughlin
United States District Court
For the Panel

DATED: October 2, 1991

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

IN RE: REAPPORTIONMENT LITIGATION
MASTER DOCKET CIVIL NO. 4-91-202
ORDER ESTABLISHING COURT SCHEDULE

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

and

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Intervening Plaintiffs,

v.

Joan Growe, Secretary of State of the State of Minnesota; Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors

of the State of Minnesota,

Defendants,

and

The Seventy-seventh Minnesota State House of Representatives; and the Seventy-seventh Minnesota State Senate,

Defendant Intervenors,

and

Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendant Intervenor.

AND

Duane Benson, Terry Dempsey, Delores Hettig, Richard Harmon, David E. Peterson, E.M. Patricia Pidcock, and Frank Ringsmuth,
Plaintiffs,

v.

Joan Growe, Secretary of State

of the State of Minnesota,

Defendant,

and

Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendant
Intervenor.

Before CHIEF JUDGE LAY, Circuit Judge, MacLAUGHLIN, District Judge, and MAGNUSON, District Judge.

The parties in the above titled case have submitted suggested criteria for reapportionment and the court having reviewed the submissions, IT IS HEREBY ORDERED THAT:

1. The parties shall confer and prepare stipulations as to population figures and base maps to be used for purposes of reapportionment.

2. The parties shall submit these stipulations to the court no later than October 10, 1991.

3. The three-judge court will hold a hearing on October 11, 1991, at 9:00 a.m. in Court

Room #1 on the fifth floor of the Federal Court Building, 316 N. Robert Street, St. Paul, Minnesota, for the purpose of hearing arguments on the proposed criteria for reapportionment.

Any parties wishing to respond to criteria previously submitted to the court must do so by October 10, 1991. Depending on the stipulations submitted by the parties, the court may entertain discussion at this hearing on matters to which the parties have not been able to stipulate.

4. The court hereby adopts the schedule set forth below:

   a. The court intends to issue its opinion on the criteria to be utilized for reapportionment no later than October 22, 1991.

   b. The parties shall submit to the court, if they choose, their suggested legislative and congressional plans for reapportionment no later than October 31, 1991.

   c. The parties shall file with the court objections to any plans of reapportionment previously submitted no later than November 12, 1991.

   d. The submission of said plans shall be fully reviewed by the court, with the understanding that no court plan will be adopted, if the State of Minnesota shall enact a valid constitutional plan on or before January 25, 1992 for

redistricting both the state legislature and congressional districts

The court adopts a time schedule primarily as a means of encouraging the legislature to reapportion the state, as it is obligated to do under Article IV, Section 3 of the Minnesota State Constitution.

IT IS SO ORDERED.

Dated this 4th day of October, 1991.

/s/
DONALD P. LAY
United States Circuit Judge
Sitting by Special Designation

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

CIVIL #4-91-202

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

and

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Intervening Plaintiffs,

v.

Joan Growe, Secretary of State of the State of Minnesota; Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors

of the State of Minnesota,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives;
and the Seventy-seventh
Minnesota State Senate,

Defendant
Intervenors,

and

Patrick O'Connor, Hennepin County
Auditor, individually and on behalf
of all County Auditors of the State of Minnesota,

Defendant
Intervenor.

AND

Duane Benson, Terry Dempsey,
Delores Hettig, Richard Harmon,
David E. Peterson, E.M. Patricia
Pidcock, and Frank Ringsmuth,
Plaintiffs,

v.

Joan Growe, Secretary of State

of the State of Minnesota,

Defendant,

and

Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendant
Intervenor.

ORDER

Before CHIEF JUDGE LAY, Circuit Judge, MacLAUGHLIN, District Judge, and MAGNUSON, District Judge.

IT IS ORDERED That plans for apportioning the Minnesota legislative districts shall be consistent with the following criteria:

1. There shall be sixty-seven (67) Senate districts and one hundred thirty-four (134) House districts.

2. Each district may elect a single member.

3. No House district shall be divided in the formation of a Senate district.

4. The population of the districts will be as nearly equal as possible. Minor deviations in population equality not to exceed plus or minus two percent (2%) will be permitted when necessary to facilitate recognition of other criteria.

5. The districts shall preserve the voting strength of minority populations and will, wherever possible, increase the probability of such minority representation from areas of sizable concentrations of minority population.

6. The districts shall be compact and consist of convenient contiguous territory. Where contiguity of a district is interrupted by water, this criterion is satisfied if the water does not seriously impede travel within the district.

7. The districts shall be numbered in a regular series. House district 1A shall begin in the northwest corner of the state, with each subsequent district proceeding in order across the state from west to east and north to south until ending in the southeast corner of the state, bypassing in the process the seven-county metropolitan area. The same process then continues for the seven-county metropolitan area outside the cities of Minneapolis and St. Paul, and ends with the cities of Minneapolis and St. Paul.

8. The integrity of existing political subdivision boundaries of the State, e.g., counties, cities, or townships, shall be respected to the extent practicable to minimize division in the formation

of a district.

9. An apportionment plan may recognize the preservation of communities of interest in the formation of districts while adhering to the established criteria. To the extent any consideration is given to a community of interest, the data or information upon which the consideration is based shall be identified.

10. Previous electorate voting behavior or residency of incumbents shall not be used in the development of any apportionment plan. This information may be used by the court, however, to evaluate the fairness and equity of plans submitted.

IT IS FURTHER ORDERED That plans for apportioning the Minnesota congressional districts shall be consistent with the following criteria:

1. There shall be eight (8) districts.

2. Each district may elect a single member.

3. The population of the districts will be as nearly equal as possible. The maximum permissible deviation from population equality will be plus or minus one-quarter of one percent (.25%).

4. The districts shall preserve the voting strength of minority populations and will, wherever possible, increase the probability of such minority representation from areas of sizable concentrations of minority population.

5. The districts shall be compact and consist of convenient contiguous territory. Where contiguity of a district is interrupted by water, this criterion is satisfied if the water does not seriously impede travel within the district.

6. The districts shall be numbered in a regular series. Congressional district one shall begin in the southeast corner of the state, and congressional district eight shall end in the northeast corner of the state.

7. The integrity of existing political subdivision boundaries of the State, e.g., counties, cities, or townships, shall be respected to the extent practicable to minimize division in the formation of a district.

8. An apportionment plan may recognize the preservation of communities of interest in the formation of districts while adhering to the established criteria. To the extent any consideration is given to a community of interest, the data or information upon which the consideration is based shall be identified.

9. Previous electorate voting behavior or residency of incumbents shall not be used in the development of any apportionment plan. This information may be used by the court, however, to evaluate the fairness and equity of plans submitted.

IT IS SO ORDERED.

DATED: October 21, 1991.

/s/
Donald P. Lay, U.S. Court of Appeals for the 8th Circuit

/s/
Harry H. MacLaughlin, U.S. District Court

/s/
Paul Magnuson, U.S. District Court

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

CIVIL #4-91-202

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

and

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Intervening Plaintiffs,

v.

Joan Growe, Secretary of State of the State of Minnesota; Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives;
and the Seventy-seventh
Minnesota State Senate,

Defendant
Intervenors,

and

Patrick O'Connor, Hennepin County
Auditor, individually and on behalf
of all County Auditors of the State of Minnesota,

Defendant
Intervenor.

AND

Duane Benson, Terry Dempsey,
Delores Hettig, Richard Harmon,
David E. Peterson, E.M. Patricia
Pidcock, and Frank Ringsmuth,
Plaintiffs,

v.

Joan Growe, Secretary of State
of the State of Minnesota,

Defendant,

and

Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendant Intervenor.

ORDER ON HEARING
MOTION FOR SUMMARY JUDGMENT

Before CHIEF JUDGE LAY, Circuit Judge, MacLAUGHLIN, District Judge, and MAGNUSON, District Judge.

Please take notice that the court shall call up for hearing a motion for summary judgment of the plaintiffs, Duane Benson, et al., for hearing on December 4, 1991, at 2:00 p.m., in courtroom number 1, on the fifth floor of the Federal Court Building, 316 North Robert Street, St. Paul, Minnesota. All parties under master docket civil number 4-91-202 in litigation entitled Emison, et al. v. Growe, et al., including the intervening plaintiffs and intervening defendants, shall be notified and shall have an opportunity to be heard on the motion for summary judgment.

IT IS SO ORDERED.

Dated this 27th day of November, 1991.

/s/
DONALD P. LAY
United States Circuit Judge
Sitting by Special Designation

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

CASE TYPE: OTHER CIVIL

COMPLAINT

Patricia Cotlow, Phillip Krass
Sharon LaComb, James Stein and
Theodore Suss, individually and
and on behalf of all Citizens of
Minnesota similarly situated,
Plaintiffs,

VS.

Joan Growe, Secretary of
State of Minnesota; and
Dale G. Folstad, Hennepin County
Auditor, individually and on behalf
of all Minnesota county chief
election officers,

Defendants.

Plaintiffs, for their cause of action, state and allege as follows:

PARTIES

1. Plaintiffs are citizens and qualified voters of the United States of America and of the State of Minnesota residing in various counties, legislative districts and congressional districts in the State of Minnesota, as appears with greater particularity in Exhibit "A" which is attached hereto and made a part hereof by reference.

2. Plaintiffs bring this action individually and on behalf of themselves and all other citizens and voters of the United States of America who reside in the State of Minnesota and who are similarly situated as having been denied Equal Protection of the laws as further stated herein. This class is so numerous as to make joinder impossible and impractical; there are common questions of law and fact which predominate over individual questions of law and fact; the claims of the named individuals are typical of the claims of the members of this class; and these Plaintiffs will fully and adequately represent and protect the interests of the class. In addition, the prosecution of separate actions by individual members of the class would create a risk of inconsistency or varying adjudications which would establish incompatible standards of conduct for the named Defendants. The common questions of law which predominate are (1) the constitutionality of the scheme of legislative apportionment set forth in Minnesota Statutes §§2.019 and 2.042 through 2.702 and (2) the constitutionality of the current plan of congressional redistricting set forth in LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982), both of which are being

enforced by the Defendants.

3. The Defendants are each citizens of the United States and of the State of Minnesota, residing in the State of Minnesota. Defendant Joan Growe is the duly elected, qualified and acting Secretary of State of Minnesota. On information and belief, she resides in Hennepin County, Minnesota. Under the provisions of Minnesota Statutes 1990 Chapters 200 through 211 inclusive, she is charged, in her official capacity, with the duty of keeping records of state elections, giving notice of state elections, receiving the filings of candidates for state elective offices, preparing ballots and instructions to voters, distributing copies of the election laws of the State of Minnesota, receiving election returns, furnishing blank election ballots and forms to the several county auditors, furnishing certificates of election to successful legislative candidates in multi-county districts and to successful candidates for election to the United States Congress, serving on the State Canvassing Board, and various other election duties.

4. Defendant Dale G. Folstad, is the duly qualified and acting Auditor of Hennepin County, State of Minnesota. As such he is the Hennepin County Chief election officer.

5. This action is brought against Defendant Dale G. Folstad as Hennepin County Auditor, individually and as representative of all other county auditors and/or chief county election officers similarly situated in the State of Minnesota; such persons being so numerous as to make it impracticable to bring them all before the Court by way of joinder; there are predominantly common questions of law, to wit, the constitutionality under the United States and

Minnesota constitutions of (a) the legislative apportionment system set forth in Minnesota Statutes §§2.019 and 2.042 through 2.702 and (b) the current plan of congressional redistricting as set forth by the Court in LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982); the defenses of the named Defendants will fairly and adequately protect the interests of the class; and the prosecutions of separate actions against individual members of the class would create a risk of inconsistent or varying adjudications which would establish incompatible standards of conduct for Plaintiffs.

6. Said county auditors and chief county election officials, however designated or titled, are charged with various election duties in their respective counties, including but not limited to preparation of ballots, furnishing of ballots, canvassing of returns of legislative and congressional elections; providing certificates of election to successful legislative and congressional candidates in single county legislative districts; certifying to the Secretary of State the results of the canvass in their respective counties and various other miscellaneous duties with respect to primary, general and special elections.

COUNT I
LEGISLATIVE MALAPPORTIONMENT

7. This case arises under the Fourteenth Amendment, Section 1 to the Constitution of the United States which provides in pertinent part:

> "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any

person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The provisions thereof guaranty to the citizens of each state the right to vote in State and Federal elections and that the vote of each shall be equally effective with any other vote cast in such elections. A state statute which effects a legislative apportionment which invidiously discriminates against voters in highly populous districts and prefers other voters in the least populous districts violates the above quoted constitutional provision.

This case also arises under the Fifth Amendment to the Constitution of the United States which provides in pertinent part:

"No person shall . . . be deprived of life, liberty or property without due process of law."

Minnesota Statutes §§2.019 and 2.042 through 2.702 effect an apportionment which invidiously discriminates against voters in the more highly populous districts including plaintiffs and prefers other voters in the least populous districts in violation of the Fifth and Fourteenth Amendments to the United States Constitution.

8. This case also arises under Article IV, Section 2 of the Minnesota State Constitution which provides:

"The number of members who compose the senate and house of representatives shall be prescribed by law. The

representation in both houses shall be apportioned equally throughout the different sections of the state in proportion to the population thereof."

9. Article IV, Section 3 of the Minnesota State Constitution provides:

> "The legislature shall have the power to provide by law for an enumeration of the inhabitants of this state and also have the power at their first session after each enumeration of the inhabitants of this state made by the authority of the United States, to prescribe the bounds of congressional, senatorial and representative districts, and to apportion the new senators and representatives among the several districts according to the provisions of section Second this Article."

10. Plaintiffs as citizens of the United States and of the State of Minnesota have the right conferred by the above provisions of the Minnesota Constitution to have the entire membership of the Minnesota Legislature apportioned and elected on the basis of the 1990 Federal Census. The intent and the purpose of the aforesaid provisions of the Minnesota Constitution is to require that the members of the Legislature be elected by the people of Minnesota on a basis of equal representation of the individual electors in the state and that the Minnesota State Senators and Representatives must be equally apportioned throughout the state in districts which are arranged in proportion to the number of inhabitants therein.

11. On information and belief, the United States Census for the 1990 shows that the state legislative districts as established and set forth in Minn. Stat. 1990, §§2.019 and 2.042 through 2.702 are unequally apportioned; the legislature of the State of Minnesota has adopted no legislative apportionment system since 1983 when it legislatively adopted the apportionment of legislative districts set forth by the United States District Court for the District of Minnesota in the case of LaComb v. Growe, 541 F. Supp. 160 (D. Minn. 1982) (Minn. Stat. 2.019, Subd. 1); that despite the compilation of the 1990 census, the legislature has failed and neglected to reapportion the legislative districts in the State of Minnesota and will unless otherwise ordered, continue to fail and neglect to reapportion those districts; and the present apportionment of the state legislative districts is not based on any logical or reasonable formula whatsoever, but is arbitrary and capricious.

12. The unequal representation reflected in the statutes cited above, deprives Plaintiffs and all other voters of the highly populated districts of the rights guaranteed to them by the Fourteenth Amendment to the United States Constitution including their rights of Due Process of Law and Equal Protection of the laws. It also deprives them of their rights as guaranteed by the above quoted provisions of the Minnesota State Constitution.

13. The common relief sought against the defendants in their official capacities relates to their respective jurisdictions in carrying out the election laws of the State of Minnesota with respect to the election of senators and representatives of said State Legislature calling for elections therefor; and the taking of all

steps necessary to hold all elections both nominating and general, and all matters relating to the election of state representatives and senators to the Minnesota State Legislature.

14. The Legislature of the State of Minnesota will not pass a law reapportioning itself in conformity with the United States Constitution and the Constitution of the State of Minnesota which law will be signed by the governor of the State of Minnesota, during the 1991 Legislative Session. The Plaintiffs allege on information and belief that all of the Defendants intend to and will, unless sooner restrained by an Order of this Court, conduct the election for the next legislature, namely the 1993 legislature, during the year 1992, on the basis of the senatorial and representative districts set forth in Minn. Stat. §§2.019 and 2.042 through 2.702, and that until there is legislative reapportionment, Defendants will continue to do so in subsequent elections of members of the Minnesota state legislature.

15. Plaintiffs further allege that they intend to and will vote in the state primary and general elections in 1992 and thereafter for candidates for state legislative offices; and that said elections conducted in accordance with Minn. Stat. §§2.019 and 2.042 through 2.702 will continue to deprive Plaintiffs of their rights guaranteed under the Constitution of the United States and the Constitution of the State of Minnesota.

16. In the absence of reapportionment of the legislative districts of the State of Minnesota in conformity with the Minnesota Constitution, any action of these Defendants in conducting an election for members of the Minnesota Legislature in accordance with the

districts prescribed by Minn. Stat. §§2.019 and 2.042 through 2.702, has deprived and will continue to deprive Plaintiffs of their constitutional rights in that:

(a) They are and will be arbitrarily deprived of liberty and property without Due Process of law, and are and will be arbitrarily deprived of the Equal Protection of the laws in violation of the Fourteenth Amendment to the Constitution of the United States.

(b) They are and will be deprived of liberty and property contrary to Article I, Section 7 of the Minnesota Constitution.

(c) They are and will be to substantial measure, disenfranchised and deprived of their rights and privileges, all in violation of Article I, Section 2 of the Minnesota Constitution.

(d) They are and will be deprived of an equally apportioned state legislature as guaranteed by Article 4, Sections 2 and 3 of the Minnesota Constitution.

(e) Their right to vote, as guaranteed by Article 7, Section 1 of the Minnesota Constitution, is and will continue to be abridged, diluted and infringed.

17. By reason of the failure of the Legislature and Governor of the State of Minnesota to reapportion the legislative districts of the state in conformity with the Minnesota Constitution, thus violating the

constitutional rights of these Plaintiffs and of all other members of the class of citizens and voters whom they represent, a justiciable controversy exists.

COUNT II
CONGRESSIONAL REDISTRICTING

18. Plaintiffs reallege Paragraphs 1 through 6 hereof.

19. This case arises under the Fourteenth Amendment, Section 1 of the Constitution of the United States which provided in pertinent part:

> No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
>
> The provisions thereof guaranty to the citizens of each state the right to vote in State and Federal elections and that the vote of each shall be equally effective with any other vote cast in such elections. State action which enforces or effects or a congressional apportionment which invidiously discriminates against voters in highly populous districts and prefers other voters in the least populous districts violates the above quoted constitutional provision.

20. Article IV, Section 3 of the Minnesota State

Constitution provides:

> At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional and legislative districts.

21. Plaintiffs as citizens of the United States and of the State of Minnesota have the right conferred by the above provision of the Minnesota Constitution to have all Representatives in Congress from the State of Minnesota apportioned and elected on the basis of the 1990 Federal Census. The intent and purpose of the aforesaid provision of the Minnesota Constitution is to require that Representatives in Congress be elected by the people of the State of Minnesota on a basis of equal representation of the individual electors in the state and that the Minnesota Representatives in Congress from the State of Minnesota must be equally apportioned throughout the state in districts which are arranged in proportion to the number of inhabitants therein.

22. On information and belief, the United States Census for 1990 shows that the congressional districts as established by the Court in LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982) are now unequally apportioned; that despite the compilation of said Census, the Legislature has failed and neglected to reapportion lawfully the congressional districts in the State of Minnesota; and the present apportionment of the congressional districts is not based upon any logical or reasonable formula whatsoever, but is arbitrary and capricious. The estimated present

population of each congressional district as now set forth in LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982), appear more fully in Exhibit "B" which is attached hereto and made a part hereof by reference.

23. The unequal representation reflected in Exhibit "B" deprives plaintiffs and all other voters of the highly populated districts of the rights guaranteed to them by the Fourteenth Amendment to the Constitution of the United States including their rights of Due Process of Law and the Equal Protection of the laws. It further deprives them of their rights as guaranteed by the above quoted provisions of the Minnesota State Constitution.

24. The common relief sought against all defendants in their official capacities related to their respective jurisdictions in carrying out the election laws of the State of Minnesota with respect to the election of Representatives in Congress calling for elections therefor; the appointment of election judges therefor; the registration of qualified voters therefor; the holding of elections therefor; the certifying of the result of said elections; the preparation of ballots therefor, and the taking of all steps necessary to hold all elections both nominating and general, and all matters relating to the election of Representatives in Congress.

25. The plaintiffs are informed and believe and, therefore, allege that the Legislature of the State of Minnesota will not pass a law reapportioning the congressional districts in conformity with the United States Constitution and the Constitution of the State of Minnesota during the 1991 Legislative Session. The plaintiffs further allege on information and belief

that all of the defendants intend to and will, unless sooner restrained by an order of this Court, conduct the next election for Representatives in Congress during the year 1992, on the basis of the current congressional districts and that until there is congressional reapportionment, defendants will continue to do so in subsequent elections of Representatives in Congress.

Plaintiffs further alleges that they intend to and will vote in the state primary and general election in 1992 and thereafter for candidates for Representatives in Congress; and that said elections conducted in accordance with the present districts will continue to deprive plaintiffs and the class that they represent of their rights guaranteed under the Constitution of the United States and of the State of Minnesota.

26. In the absence of reapportionment of the congressional districts of the State of Minnesota in conformity with the United States Constitution and the Minnesota Constitution, any action of these defendants in conducting an election for Representatives in Congress in accordance with the present districts has deprived and will continue to deprive plaintiffs of their constitutional rights in that:

(a) They are and will be arbitrarily deprived of liberty and property without due process of law, and are and will be arbitrarily deprived of the equal protection of the laws in violation of the Fourteenth Amendment to the Constitution of the United States.

(b) They are and will be deprived of liberty and property contrary to Article I, Section

7 of the Minnesota Constitution.

(c) They are and will be in substantial measure, disenfranchised and deprived of their rights and privileges, all in violation of Article I, Section 2 of the Minnesota Constitution.

(d) They are and will be deprived of equally apportioned congressional districts as guaranteed by Article 4, Section 3 of the Minnesota Constitution.

(e) Their right to vote, as guaranteed by Article 7, Section 1 of the Minnesota Constitution, is and will continue to be abridged, diluted and infringed.

27. By reason of the failure of the Legislature of the State of Minnesota to reapportion the congressional districts of the state in conformity with the Federal and Minnesota Constitutions, thus violating the constitutional rights of these plaintiffs and of all other members of the class of citizens and voters whom they represent, a justiciable controversy exists.

JURISDICTION

28. This Court has authority under and by virtue of 42 U.S.C. § 1983 et. seq. to enforce the Plaintiffs' United States Constitutional rights set forth above and has general jurisdiction to enforce the Plaintiffs' Minnesota constitutional rights set forth in Counts I and II above.

29. This Court also has jurisdiction under the provisions of M.S.A. §555.01 and §555.08 through 555.12 to

grant the relief requested herein.

WHEREFORE, plaintiffs pray for relief as follows:

1. That this Court declare the rights of the plaintiffs and the class they represent in the premises, to wit:

   (a) that the present legislative apportionment of the State of Minnesota as set forth in Minnesota Statutes § 2.019 and 2.042-2.702 has deprived and continues to deprive plaintiffs and their class of their liberty and property without Due Process of law and has denied and continues to deny the plaintiffs Equal Protection of the law, all in violation of the Fourteenth Amendment to the Constitution of the United States; and

   (b) the present scheme of congressional apportionment deprives plaintiffs and the class they represent of Due Process of Law and Equal Protection of the law all in violation of the Fourteenth Amendment to the Constitution of the United States.

2. The Court declare that Minnesota Statute §§2.042 through 2.072 unlawfully impairs the rights of the plaintiffs and the class they represent as guaranteed by Article 1, Section 2 and Article 4, Sections 2 and 3 of the Minnesota Constitution.

3. The Court issue its permanent injunction and judgment decreeing that the plan of legislative apportionment set forth in Minnesota Statute § 2.019 and 2.042 through 2.702 may not hereafter be used as a valid plan and scheme of legislative apportionment.

4. The Court permanently restrain the defendants and the class of persons they represent from receiving nominations and petitions for legislative office, from issuing certificates of nominations and elections, and from all further acts necessary to the holding of elections for members of the Minnesota Legislature in the districts set out and described in Minnesota Statutes §§2.042 through 2.702 until such time as the legislature passes and the governor approves legislation reapportioning the state legislative districts in accordance with the Constitution of Minnesota and the Due Process and Equal Protection clauses of the United States Constitution.

5. The Court notify the Legislature of the State of Minnesota presently in session, that it shall retain jurisdiction of this cause during the terms of such legislature to determine at the end thereof whether any new legislative apportionment system has been devised to meet the requirements of the Fourteenth Amendment to the Constitution of the United States and the provisions of the Constitution of the State of Minnesota and for further hearings herein to determine the validity of any new legislative apportionment law as may be enacted; and in the absence of the enactment of a constitutionally valid method of legislative apportionment by said Legislature that this Court will make a determination of a proper legislative apportionment system for the State of Minnesota.

6. The Court declare that the present plan of Congressional districts unlawfully impairs the rights of the plaintiffs and the class they represent as guaranteed by Article 4, Section 3 and Article 1, Section 2 of the Minnesota Constitution.

7. The Court issue its permanent injunction and

judgment decreeing that the plan of congressional apportionment set forth in the present plan of Congressional districts as set forth in LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982) may not hereafter be used by Defendants as a valid plan and scheme of congressional apportionment.

8. The Court permanently restrain the Defendants and the class of persons they represent from receiving nominations and petitions for Congressional office, from issuing certificates of nomination and election and from all further acts necessary to the holding of elections for members of Congress in the districts set out and described in Appendix A to the decree of the Court in LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982) until such time as the legislature passes and the governor approves legislation apportioning the eight (8) Minnesota Congressional districts in accordance with the Constitution of Minnesota and the Due Process and Equal Protection clauses of the United States Constitution.

9. The Court notify the Legislature of the State of Minnesota presently in session, that it Court shall retain jurisdiction of this cause during the terms of such legislature to determine at the end thereof whether any new congressional apportionment system has been devised to meet the requirements of the Fourteenth Amendment to the Constitution of the United States and the provisions of the Constitution of the State of Minnesota and for further hearings herein to determine the validity of any new congressional apportionment law as may be enacted; and in the absence of the enactment of a constitutionally valid method of congressional apportionment by said Legislature that this Court will make a determination of a proper congressional

apportionment system for the State of Minnesota.

10. The Court order defendants to pay to plaintiffs, pursuant to 42 U.S.C. §1988 and Minn. Stat. §555.08, their reasonable attorneys fees and expenses, expert fees, costs and other expenses incurred in prosecuting this action.

11. For such other and future relief as is just in the circumstances.

Dated: January 24, 1991

/s/

Alan W. Weinblatt
Weinblatt and Davis
Attorney for Plaintiffs
1616 Pioneer Building
St. Paul, MN 55101
Telephone: (612) 292-8770
Atty. Regis. No. 115332

ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. §549.21, subd. 2, to the party against whom the allegations in this pleading are asserted.

/s/

ALAN W. WEINBLATT

EXHIBIT A

Plaintiff	Legislative District	Congressional District	County
Patricia Cotlow	48A	6	Hennepin
Phillip Krass	42A	3	Hennepin
Sharon LaComb	37A	3	Dakota
Theodore Suss	36A	3	Scott
James Stein	38B	4	Dakota

EXHIBIT B

	1980 Population	1990 Population	Net Change	% Change
State	4,075,970	4,362,938	+286,968	+ 7.0%
District				
1	509,460	528,955	+ 19,495	+ 3.8%
2	509,500	478,744	- 30,756	- 6.0%
3	509,499	663,100	+153,601	+30.1%
4	509,499	534,974	+ 25,475	+ 5.0%
5	509,506	499,270	- 10,236	- 2.0%
6	509,505	652,674	+143,169	+28.1%
7	509,495	515,681	+ 6,186	+ 1.2%
8	509,506	489,540	- 19,966	- 3.9%

STATE OF MINNESOTA
DISTRICT COURT

COUNTY OF HENNEPIN
FOURTH JUDICIAL DISTRICT

CASE TYPE: OTHER CIVIL

STIPULATION

Court File No. MX 91-001562

Patricia Cotlow, Phillip Krass
Sharon LaComb, James Stein and
Theodore Suss, individually
and on behalf of all Citizens of
Minnesota similarly situated,
Plaintiffs

vs.

Joan Growe, Secretary of
State of Minnesota; and
Dale G. Folstad, Hennepin County
Auditor, individually and on behalf
of all Minnesota county chief
election officers,

Defendants.

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto through their respective undersigned attorneys as follows:

1. Pursuant to Minn. Stat. §§ 484.01, *et seq.* (1990). this Court has Jurisdiction of the subject matter of all of the allegations contained in the Complaint filed herein.

2. This Court has jurisdiction to hear and determine cases arising under 42 U.S.C. § 1983.

3. Plaintiffs herein possess the requisite standing and Defendants are the appropriate parties.

4. The action may be maintained as a class action, it being stipulated that the class is so numerous that joinder of all members is impracticable. there are questions of law common to the class, the claims of the named plaintiffs are typical of the claims of the class, the named plaintiffs will fairly and adequately protect the interests of the class, the prosecution of separate actions by individual members of the class would create the risk of inconsistent or varying adjudications, the common questions of law predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The class consists of Minnesota voters the effectiveness of whose votes has become diluted as a result of population increases in the legislative and/or congressional districts in which they reside. These population increases are reflected in the 1990 Federal Census.

5. The present apportionment of legislative districts set forth in Minn. Stat. §§ 2.019 and 2.042 through 2.702 contravene the provisions of the United States Constitution, Amendment 14, Section 1, and the Minnesota Constitution. Article 4, Section 2 and Article 4, Section 3. as a result of changes in the

population of the legislative districts reflected in the 1990 Federal Census.

6. The plan of legislative apportionment contained in Minn. Stat. §§ 2.019 and 2.042 through 2.702 shall not be used by the Defendants for legislative elections to be held in November, 1992, or for any other purpose except for special legislative elections required to be held by law, unless otherwise ordered by this court.

7. The current plan of congressional redistricting as set forth in Appendix A to *LaComb v. Growe*, 541 F. Supp. 145 (D. Minn. 1982) contravenes the provisions of the United States Constitution, Amendment 14, Section 1, and the Minnesota Constitution, Article 4, Section 2, and Article 4, Section 3, as a result of changes in the population of the congressional districts reflected in the 1990 Federal Census.

8. The plan of congressional redistricting contained in Appendix A to the court's order in *LaComb v. Growe*, 541 F. Supp. 145 (D. Minn. 1982) shall not be used by Defendants for congressional elections to be held in November, 1992, or for any other purpose except for special congressional elections required to be held by law, unless otherwise ordered by this Court.

9. The Chief Judge of Hennepin County District Court may request the Chief Justice of the State of Minnesota to exercise the Supreme Court's inherent authority to appoint a panel of three district and/or appellate judges to hear and decide the within action and all motions and proceedings arising therefrom.

10. A three judge panel appointed by the Chief Justice of the State of Minnesota or a single judge of the

District Court of Hennepin County, Minnesota, may enter an Order incorporating the terms of paragraphs 5 and 7 of this Stipulation.

WEINBLATT AND DAVID

/s/
ALAN W. WEINBLATT
Atty. reg. no. 115332

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Attorneys for Plaintiffs

Dated: February 25, 1991

HUBERT H. HUMPHREY III
Attorney General
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By: /s/
JOHN R. TUNHEIM
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Attorneys for Defendants
Joan Growe and State of
Minnesota

Dated: February 22,1991

/s/
MICHAEL O. FREEMAN
Hennepin County Attorney
Atty. reg. No. 31860

A-2000 Hennepin County
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300 South Sixth Street
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(612)348-3099

Attorney for Defendants
Dale Folstad and Hennepin
County

Dated: February 22,1991

STATE OF MINNESOTA

IN SUPREME COURT

C8-91-985

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,
Plaintiffs,

vs.

Joan Growe, Secretary of State of Minnesota; and Dale G. Folstad, Hennepin County Auditor, individually and on behalf of all Minnesota county chief election officers,

Defendants

ORDER

WHEREAS, pending in the Hennepin County District Court is the action commenced by Patricia Cotlow, et al. (Case No. MX 91-001562) challenging the apportionment of state legislative and congressional districts and

WHEREAS, this court has been requested informally to appoint a panel of three judges to hear and decide the matter on its merits, as well as any and all motions or other proceedings arising in connection therewith;

IT IS HEREBY ORDERED that the Honorable Harriet Lansing, Judge of the Court of Appeals; the Honorable William E. Walker, Judge of the Seventh Judicial District; and the Honorable Kenneth J. Maas, Jr., Judge of the Tenth Judicial District are appointed to hear and decide all

matters, including all pretrial and trial motions, in connection with the panels' ultimate disposition of the above-entitled action. See Minn. Stat. § 2.724, subd. 1 (1990).

Dated: June 4, 1991

BY THE COURT:

/s/
Chief Justice

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

MX 91-001562

Patricia Cotlow, Phillip Krass
Sharon LaComb, James Stein, and
Theodore Suss, individually and
on behalf of all Citizens of
Minnesota similarly situated,
Plaintiffs,

and

John Walker, Howard Miller,
Don Sudor, and Nkajlo Vangh,

Applicants for Intervention,

vs.

Joan Growe, Secretary of State
of Minnesota; and Dale G. Fostad,
Hennepin County Auditor,
individually and on behalf of
all Minnesota county chief
election officers,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives
and the Seventy-seventh Minnesota
State Senate,

Defendant-Intervenors.

PRETRIAL ORDER NO. 1

The above-entitled matter was called for pretrial conference pursuant to Minn. R. Civ. P. 16.01 before the Honorable Harriet Lansing, Honorable William E. Walker, and Honorable Kenneth J. Maas, Jr., on July 26, 1991.

Plaintiffs appeared by Alan Weinblatt, Weinblatt & Davis, 336 Robert Street, Suite 1616, St. Paul, Minnesota, 55101.

Defendant Dale G. Folstad appeared by Hennepin County Attorney Michael Freeman, A-2000 Hennepin County Government Center, 300 South Sixth Street, Minneapolis, Minnesota, 55487.

Defendant Joan Growe appeared by Chief Deputy Attorney General John R. Tunheim, Office of the Attorney General, 102 State Capitol, St. Paul, Minnesota, 55155.

Defendant-Intervenors appeared by John D. French, Faegre & Benson, 2300 Norwest Center, Minneapolis, Minnesota, 55402.

Plaintiff-Intervenors appeared by Bruce D. Willis, Popham, Haik, Schnobrich, Kaufman, Ltd., 3300 Piper Jaffray Tower, 222 Ninth Street South, Minneapolis, Minnesota, 55402.

All parties addressed the Court regarding intervention and stipulated to intervention by Walker, Miller, Sudor, and Vangh as Plaintiff-Intervenors. Plaintiffs agreed to withdraw their objection to intervention, and Plaintiff-Intervenors agreed not to seek to remove this action to federal court.

The parties acknowledged this Court's subject matter

jurisdiction, and this Court concludes that it has jurisdiction over the subject matter of this action. See Minn. Const. art. I, §§ 2, 3; Scott v. Germano, 381 U.S. 407, 410, 85 S. Ct. 1525, 1527 (1965)(recognizing state judiciary's authority to require valid reapportionment and to formulate redistricting plan).

Each party proposed a schedule to the Court. In view of the important state interests implicated in this proceeding, this Court must proceed as expeditiously as possible to resolve the parties' respective claims. Accordingly, based upon the parties' stipulation, the entire file, and arguments of counsel, and in conformance with the June 4, 1991 order of the Minnesota Supreme Court, this Court orders:

1. Pursuant to Rule 24 of the Minnesota Rules of Civil Procedure and the stipulation of the parties, John Walker, Howard Miller, Don Sudor, and Nkajlo Vangh are permitted to intervene in this action as Plaintiff-Intervenors.

2. Proposals regarding the criteria to be used in formulating an appropriate redistricting plan shall be submitted by the Defendant-Intervenors to this Court by Friday, August 9, 1991. Counsel for the Defendant-Intervenors has offered to provide this Court with documentation criteria adopted by the Defendant-Intervenors in formulating the redistricting plan that is the subject of litigation pending in Ramsey County entitled The Seventy-seventh Minnesota State Senate and the Seventy-seventh Minnesota State House of Representatives v. Arne Carlson, et al, Court File No. C3-91-7547, and we request that these materials also be submitted by August 9, 1991. Any responses to the criteria submitted must be filed with this Court by Tuesday, August 13, 1991.

Assuming conformity by the parties with this

order, this Court will issue an order by Friday, August 16, 1991, specifying the criteria to be used in formulating proposed redistricting plans. Proposed redistricting plans shall be submitted by Friday, August 30, 1991.

3. To assess the capability of the Minnesota State Legislature's redistricting facilities and the feasibility of using its system to devise an appropriate redistricting plan, this Court shall tour the legislature's redistricting computer center. We request that counsel for Defendant-Intervenors arrange this tour for the afternoon of Tuesday, August 20, 1991.

4. A copy of this order shall be published.

Dated: July 29, 1991

BY THE COURT:

Honorable Harriet Lansing

Honorable Kenneth J. Maas, Jr.

Honorable William E. Walker

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

MX 91-001562

Patricia Cotlow, Phillip Krass
Sharon LaComb, James Stein, and
Theodore Suss, individually and
on behalf of all Citizens of
Minnesota similarly situated,
Plaintiffs,

and

John Walker, Howard Miller,
Don Sudor, and Nkajlo Vangh,
Applicants for Intervention,

Joan Growe, Secretary of State
of Minnesota; and Dale G. Folstad,
Hennepin County Auditor,
individually and on behalf of
all Minnesota county chief
election officers,
Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives
and the Seventy-seventh Minnesota
State Senate,
Defendant-Intervenors.

PRETRIAL ORDER NO. 2
Establishing Preliminary
Criteria For Legislative
Congressional
Redistricting, Directing
Oral Argument on Reserved
Issues, and Setting
Comprehensive Timetable

In Pretrial Order Number One, the parties were required to submit proposals for criteria to be used in formulating an appropriate congressional and legislative redistricting plan for the State of Minnesota. After issuance of that order the Ramsey County District Court, in Seventy-seventh Minn. State Senate v. Carlson, No. C3-91-7547 (Minn. Dist. Ct., 2d Judicial Dist., Aug. 2, 1991) determined that Chapter 246, S.F. No. 1571, passed by the legislature May 18, 1991, changing the boundaries of Minnesota legislative districts, was not effectively vetoed and became a validly enacted law of the State of Minnesota. In light of this decision, and the governor's subsequent announcement that the order would not be appealed, the panel has revised the proposed time schedule to provide an opportunity for motions or amendments relating to the validity of the current legislative redistricting and for oral argument on reserved criteria issues.

The preliminary criteria, based on the submission of the parties in conformance with Pretrial Order No. One shall be as follows:

Congressional

1. There will be eight districts, each entitled to elect a single member.

2. The districts will be as nearly equal in population as practicable. Because a court-ordered reapportionment plan must conform to a higher standard of population equality than a legislative reapportionment plan, de minimis deviation from the population norm will be the goal for establishing districts. See Chapman v. Meier, 420 U.S. 1, 95 S. Ct. 751 (1975); Connor v. Finch, 431 U.S. 407, 97 S. Ct. 1828 (1977).

3. The districts will be composed of convenient contiguous territory structured into compact units. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district.

4. The districts will be numbered in a regular series, beginning with congressional district one in the southeast corner of the state and ending with district eight in the northeast corner of the state.

5. The districts must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority makes it possible, the districts must increase the probability that members of the minority will be elected. Any plan adopted by the court shall comply with the applicable provisions of the Federal Voting Rights Act, 42 U.S.C. § 1971, et seq.

6. The districts will be drawn with attention to county, city and township boundaries. A county, city, or township will not be divided into more than one district except as necessary to meet equal population requirements or to form districts that are composed of convenient, contiguous and compact territory. When any county, city or township must be divided into one or more districts, it will be divided into as

few districts as practicable. Reynolds v. Sims, 377 U.S. 533, 578-79, 84 S. Ct. 1362, 1390-91 (1964); Swann v. Adams, 385 U.S. 440, 444, 87 S. Ct. 569, 572 (1967).

7. The districts should attempt to preserve communities of interest when that can be done in compliance with the preceding standards. The panel may recognize a community's character as urban, suburban or rural. See Skolnick v. State Electoral Bd. of Ill., 336 F. Supp. 839 (N.D. Ill. 1971); LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982); LaComb v. Growe, 541 F. Supp. 160 (D. Minn. 1982); Maryland Citizens Comm. for Fair Congressional Redistricting, Inc. v. Tawes, 253 F. Supp. 731 (D. Md. 1966), aff'd sub. nom. Alton v. Tawes, 384 U.S. 315, 86 S. Ct. 1590 (1966). Additional communities of interest shall be considered if persuasively established and not in violation of applicable case law.

Legislative

1. The Senate must be composed of 67 members. The House of Representatives must be composed of 134 members.

2. Each district is entitled to elect a single member.

3. A representative district may not be divided in the formation of a senate district.

4. The districts must be substantially equal in population. The population of a district must not deviate from the ideal by more than two percent. Because a court-ordered reapportionment plan must conform to a higher standard of population equality than a legislative reapportionment plan, de minimis

deviation from the population norm will be the goal for establishing districts. See Chapman, 420 U.S. 1, 95 S. Ct. 751; Connor, 431 U.S. 407, 97 S. Ct. 1828.

5. The districts must be composed of convenient contiguous territory structured into compact units. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district.

6. The districts must be numbered in a regular series, beginning with House district 1a in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the seven-county metropolitan area until the southeast corner has been reached; then to the seven-county metropolitan area outside the cities of Minneapolis and St. Paul; then in Minneapolis and St. Paul.

7. The districts must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority makes it possible, the districts must increase the probability that members of the minority will be elected. Any plan adopted by the court shall comply with the applicable provisions of the Federal Voting Rights Act, 42 U.S.C. § 1971, et seq.

8. The districts will be drawn with attention to county, city and township boundaries. A county, city, or township will not be divided into more than one district except as necessary to meet equal population requirements or to form districts that are composed of convenient, contiguous and compact territory. When any county, city or township must be divided into one or more districts, it will be divided into as few districts as practicable. Reynolds v. Sims, 377 U.S. 533, 578-79, 84 S. Ct. 1362, 1390-91 (1964);

Swann v. Adams, 385 U.S. 440, 444, 87 S. Ct. 569, 572 (1967).

9. The districts should attempt to preserve communities of interest when that can be done in compliance with the preceding standards. The panel may recognize a community's character as urban, suburban or rural. See Skolnick v. State Electoral Bd. of Ill., 336 F. Supp. 839 (N.D. Ill. 1971); LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982); LaComb v. Growe, 541 F. Supp. 160 (D. Minn. 1982); Maryland Citizens Comm. for Fair Congressional Redistricting, Inc. v. Tawes, 253 F. Supp. 731 (D. Md. 1966), aff'd sub. nom. Alton v. Tawes, 384 U.S. 315, 86 S. Ct. 1590 (1966). Additional communities of interest shall be considered if persuasively established and not in violation of applicable case law.

Reserved Issues

1. Whether a provision prohibiting use of election data or voting patterns should be added to the standards.

2. Whether a provision allowing preservation of "prior cores" should be added to the standards.

3. Whether a provision forbidding use of information on incumbents should be added to the standards.

4. Additional considerations in recognizing or rejecting communities of interest.

Timetable

Aug. 20, 1991 1:30	Tour of computer systems being used by the legislature for developing redistricting plans.
Aug. 27, 1991	Submission of any written materials relating to reserved issues in Preliminary Criteria Order.
Aug. 29, 1991 1:30	Oral argument on reserved 1:30 issues in Preliminary Criteria Order, status briefing or argument on any motions or amendments as a result of decision in Seventy-seventh Minn. State Senate v. Carlson, No. C3-91-7547 (Minn. Dist. Ct., 2d Judicial Dist., Aug. 2, 1991). Stipulation of parties on population figures and base maps to be used in redistricting plan. Absent stipulation, oral argument.
Sept. 13, 1991	Issuance of Final Criteria Order and specification of form for submitting data.
Oct. 7, 1991	Submission of proposed redistricting plans together with written justification and graphs or maps required by Final Criteria Order.
Oct. 18, 1991	Submission of parties' written reaction to each other's plans.
Nov. 20, 1991	Distribution of panel's Redistricting Plan.
Nov. 30, 1991	Submission of parties' written responses to plan.

Dec. 7, 1991 Oral argument on plan.

Dec. 20, 1991 Issuance of final decision.

Dated: August 16, 1991

BY THE COURT:

Honorable Harriet Lansing
Honorable Kenneth J. Maas, Jr.
Honorable William E. Walker

Memorandum

The panel has considered and in large part adopted the standards unanimously passed by the Minnesota House and Senate. Because the Minnesota Constitution places primary responsibility for redistricting with the legislature, these standards have been accepted as preferred redistricting policy to the extent the standards apply to the panel's task and are not inconsistent with state or federal constitutional principles, state law or other recognized state policy. Several standards have been augmented or restated to incorporate applicable case law or appropriate suggestions by the parties. Standards reserved for oral argument have been submitted by separate parties, but not all parties have had an opportunity to respond. Because the timetable has been amended to permit response to the Ramsey County District Court's declaration that Chapter 246 is a validly enacted law of the State of Minnesota, the timetable can also permit oral argument on issues relating to the use of election data, prior cores, incumbency information and communities of interest.

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

MX 91-001562

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Plaintiffs,

John Walker, Howard Miller, Don Sudor, and Nkajlo Vangh,

Plaintiff-Intervenors,

v.

Joan Growe, Secretary of State of Minnesota, and Dale G. Folstad, Hennepin County Auditor, individually and on behalf of all Minnesota county chief election officers,

Defendants,

The Seventy-seventh Minnesota State House of Representatives and the Seventy-seventh Minnesota State Senate,

Defendant-Intervenors.

COMPLAINT IN INTERVENTION
OF PLAINTIFF INTERVENORS
WALKER, MILLER, SUDOR,
AND VANGH

Plaintiff-intervenors John Walker, Howard Miller, Don Sudor, and Nkajlo Vangh, for their complaint in intervention, state:

1. This complaint in intervention is filed pursuant to stipulation of the parties and order of this Court under Rule 24.

2. Plaintiff-intervenors John Walker, Howard Miller, Don Sudor, and Nkajlo vangh are citizens and qualified voters of the United States and the state of Minnesota. Plaintiff-intervenors Sudor and Miller live in non-metropolitan areas in Minnesota. Plaintiff-intervenor Vangh is a member of a racial minority.

3. Defendant Joan Growe is the duly elected and qualified Secretary of State and the chief election officer of the state of Minnesota, and plaintiff-intervenors concur that her duties are those described in paragraph 3 of plaintiffs' complaint.

4. Defendant Dale G. Folstad is the duly qualified auditor of Hennepin County and is its chief election officer, and plaintiff-intervenors concur with the allegations of paragraph 5 of plaintiffs' complaint to the extent they allege that defendant Folstad will fairly and adequately represent the interests of chief county election officials.

5. Plaintiff-intervenors allege that plaintiffs will not adequately represent the interests of plaintiff-intervenors nor will they adequately protect the citizens of Minnesota, but

plaintiff-intervenors concur that this action should be designated a class action with both plaintiffs and plaintiff-intervenors as class representatives.

6. Article I, section 2, of the Constitution of the United States guarantees to the citizens of each state that their votes shall be equally as effective as any other votes cast in an election and that congressional representatives shall be elected on the basis of equal representation of individual voters. Further, this provision guarantees that congressional representation shall be apportioned throughout a state in districts that are, among other requirements, of equal population.

7. Any plan of congressional districts that does not meet the constitutional standard of equal population discriminates against voters in more highly populated districts, while exaggerating the power of voters in less populated districts, in violation of rights afforded under article I, section 2, of the United States Constitution. Any action of defendants in enforcing or implementing a plan that does not meet constitutional or other legal requirements violates the rights of plaintiff-intervenors and similarly-situated citizens and voters of Minnesota.

8. Minnesota's current congressional districts were established and remain in force by continuing order of the United States District Court for the District of Minnesota in LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982) (Civ. 4-81-414) aff'd sub nom. Orwoll v. LaComb, 456 U.S. 966 (1982).

9. The United States Department of Commerce, Bureau of Census, has issued statistical data from the 1990 census showing that the congressional districts ordered by the United States District Court for the District of Minnesota in 1982 are no longer equally apportioned.

10. The legislature of the state of Minnesota ("the legislature") possesses state constitutional authority to prescribe the boundaries of congressional districts at their first session following each federal decennial census. Following the 1980 census, the legislature failed to establish new congressional districts in accordance with constitutional requirements. Following the 1990 census, the legislature received census data showing that congressional districts established by continuing order of the United States District Court for the District of Minnesota in 1982 are no longer equally apportioned. In its 1991 session, the legislature did not consider or pass any legislation drawing new congressional districts.

11. On information and belief, defendants intend to conduct their duties with respect to the 1992 primary and general elections for Minnesota's congressional representatives based on current congressional districts.

12. Plaintiff-intervenors intend to vote in the 1992 primary and general elections for congressional representatives. If these elections are conducted on the basis of current congressional districts, or on the basis of new districts that do not meet constitutional or other legal requirements, plaintiff-intervenors and other similarly-situated citizens and voters will be denied their constitutional or other rights.

13. Section 1 of the fourteenth amendment to the Constitution of the United States guarantees the citizens of each state that their votes shall be equally as effective as any other votes cast in a federal and state election and that state legislative representatives shall be elected on the basis of equal representation of the individual voters in a state by apportioning such representation throughout a state in legislative districts that are, among other requirements, of equal population.

14. Any plan of state legislative districts that does not meet the constitutional standard of equal population unlawfully discriminates gainst voters in more highly populated districts, while exaggerating the power of voters in less populated districts, in violation of rights afforded under the fourteenth amendment to the United States Constitution. Any action of defendants in enforcing or implementing a plan that does not meet constitutional or other legal requirements violates the equal protection and due process rights or other rights of plaintiff-intervenors and other similarly-situated citizens and voters of Minnesota.

15. The United States Department of Commerce, Bureau of Census, has issued statistical data from the 1990 census showing that the state legislative districts ordered by the United States District Court for the District of Minnesota in 1982 are no longer equally apportioned.

16. The legislature possesses state constitutional authority to prescribe the boundaries of state legislative districts-at its first session following each federal decennial census. Following the 1980 census, the legislature failed to establish new state legislative districts in accordance with legal requirements. Following the 1990 census, the legislature received census data showing that state legislative districts established by continuing order of the United States District Court for the District of Minnesota in 1982 are no longer equally apportioned. In its 1991 session, the legislature passed legislation establishing new state legislative districts. The Ramsey County District Court has ruled that the Governor's attempted veto of that legislation was invalid, so it has now become law.

17. The new state legislative districts created by the 1991 legislature do not meet constitutional and other legal requirements.

18. On information and belief, defendants intend to conduct their duties with respect to the 1992 primary and general elections for state legislative representatives based upon the new state legislative districts created by the 1991 legislature.

19. Plaintiff-intervenors intend to vote in the 1992 primary and general elections for state legislative representatives. If these elections are conducted on the basis of the new state legislative districts created by the 1991 legislature, plaintiff-intervenors and other similarly-situated citizens and voters will be denied their constitutional or other rights.

20. The legislature has represented in this action and in a parallel redistricting action pending in United States District Court for the District of Minnesota, entitled Emison, et al. v. Growe, et al., Court File No. 4-91-202, that in January 1992 it will adopt legislation that will become law establishing new congressional districts and amendatory legislation correcting constitutional or other legal deficiencies in the new state legislative redistricting plan. Based upon those representations, by a Memorandum Opinion and Order, dated August 21, 1991, the federal panel in Emison has directed that the legislature's plans for congressional and state legislative redistricting be presented to the federal panel on or before January 20, 1992.

WHEREFORE, plaintiff-intervenors pray for the following relief:

a. That this Court issue an order fixing a reasonable time within which the legislature may adopt congressional and state legislative redistricting plans meeting constitutional and other legal requirements and staying further proceedings in this Court pending compliance

with such order.

b. That this Court will permit plaintiff-intervenors to participate with the other parties in any consideration and review by the Court of laws establishing new congressional districts or state legislative districts, or both.

c. That if this Court considers and establishes plans for congressional districts or state legislative districts, or both, the Court will permit plaintiff-intervenors to participate in all aspects of the case, including assistance to the Court in developing criteria for such plans, and the Court shall permit and consider plans submitted by plaintiff-intervenors and allow plaintiff-intervenors to comment on plans submitted by others.

d. That the Court award plaintiff-intervenors their reasonable attorneys' fees and expenses, expert fees and costs, and other expenses incurred in this action.

e. That this Court order such other relief as is just and equitable in the circumstances.

Dated: August 26, 1991

POPHAM, HAIK, SCHNOBRICH & KAUFMAN, Ltd.

By /s/
Bruce D. Willis Reg. No.117572
Mark B. Peterson Reg. No.14440X
3300 Piper Jaffray Tower 333-4800
222 Ninth Street South
Minneapolis, Minnesota 55402

Attorneys for Plaintiff-Intervenors John Walker, Howard Miller, Don Sudor, Nkajlo Vangh.

ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorneys' and witness fees may be awarded pursuant to Minnesota Statutes, Section 549.21, subd. 2, to the party or parties against whom the allegations in this pleading are asserted.

/s/
Bruce D. Willis

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

C8-91-985

PRETRIAL ORDER NO. 3

Establishing Final Criteria for Redistricting, Staying the Time Periods for Local Governmental Units to Redefine Their Local Election Districts, Accelerating Time Schedule for Completing the Legislative Redistricting Plan, Designating Form for Submission of Plans, Granting Motions to Amend Defendant-Intervenors Complaint, and Designating Issues for Oral Argument on September 24, 1991

Patricia Cotlow, Phillip Krass Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Plaintiffs,

and

John Walker, Howard Miller,
Don Sudor, and Nkajlo Vangh,

Plaintiff-Intervenors,

vs.

Joan Growe, Secretary of State
of Minnesota; and Patrick H.
O'Connor, Hennepin County Auditor,
individually and on behalf of all
Minnesota county chief election
officers,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives
and the Seventy-seventh Minnesota
State Senate,

Defendant-Intervenors.

I.
Criteria

Pretrial Order No. 2 established preliminary criteria for redistricting, but reserved four issues for further argument by the parties. The parties submitted memoranda and addressed the reserved issues in oral argument on August 29, 1991. Based on the written and oral submissions,

the panel orders the following:

Congressional

1. The preliminary congressional criteria in paragraphs 1 through 7 of Pretrial Order No. 2 are adopted as final criteria.

2. Past voting behavior and residency of incumbents shall not be used as criteria; however, they may be used to evaluate the fairness of plans submitted to the court.

Legislative

3. The preliminary legislative criteria in paragraphs 1 through 9 of Pretrial Order No. 2 are adopted as final criteria.

4. Past voting behavior and residency of incumbents shall not be used as criteria; however, they may be used to evaluate the fairness of plans submitted to the court.

II.

5. An additional criterion proposed by plaintiffs and defendant-intervenors, requesting that any plan for redrawing state legislative districts be based on Minnesota Laws 1991, Chapter 246 and necessary changes, is consolidated for consideration with motions to be argued on September 24, 1991.

III.

Motion to Stay Time Period for Local Governments to Redefine Their Local Election Districts

6. The Hennepin County Auditor, on behalf of all chief election officials, requests an order to stay the time periods for local governments to redefine their local election districts. Minn. Stat. §§ 204B.135, 204B.14, 205.84, 205A.12, and 375.02 require local governmental units to redefine their local election districts within specific time periods following final redistricting.

These time periods were previously stayed on July 24, 1991 by order of the Ramsey County District Court. Judge Smith's determination in Seventy-seventh Minn. State Senate v. Carlson, No. C3-91-7547 (Minn. Dist. Ct., 2d Judicial Dist., Aug. 2, 1991) that Senate File No. 1571 (Chapter 246) and House File No. 635 (Chapter 349) were validly enacted into law implicitly requires the local governmental units to begin redistricting. The Hennepin County Auditor asserts that corrections affecting 17 counties, 44 cities and 17 towns must be made before local redistricting is possible. These corrections cannot be made by the legislature before it reconvenes in January.

The panel orders that the time periods within which local units of government are required to complete the redefining of the boundaries of election precincts, wards, or other local election districts pursuant to Minn. Stat. §§ 204B.135, 204B.14, 205.84, 205A.12, and 375.02 as amended by Minnesota Laws 1991,

Chapter 349, are suspended until further order of this court.

IV.
Time Schedule

7. A majority of the parties to this action have requested that the panel accelerate the date for completion of the legislative redistricting process to allow for orderly planning by local officials and candidates and proper notice to voters.

The panel recognizes the validity of these concerns and orders the following changes to the time schedule:

September 24, 1991 1:30 - Courtroom 200 Minnesota Judicial Building	Oral argument on issues designated in section VII.
October 7, 1991	Submission of proposed legislative redistricting plan.
October 16, 1991 1:30 - Courtroom 200 Minnesota Judicial Building	Submission of parties' written reaction to each other's plans and oral arguments contrasting, comparing and analyzing the plans.
November 20, 1991	Distribution of panel's legislative redistricting plan.
November 27, 1991	Submission of parties' written responses to legislative redistricting plan.

December 3, 1991	Oral arguments on redistricting plan.

The revised schedule will permit the panel to have a target date for completion of the legislative redistricting plan in the first week in December.

V.
Population Figures and Forms for Submission

8. The parties have agreed that the following population figures and base maps be used for purposes of the redistricting plan: Census of Population and Housing, 1990: Public Law (P.L.) 94-171 (Minnesota) [machine-readable data files]/prepared by the Bureau of Census.

   TIGER/Line Census Files, 1990 [machine-readable data files]/prepared by the Bureau of Census.

9. The legislative redistricting plans to be submitted on October 7, 1991 shall include the following:

   a. a map of the state showing proposed districts and minor civil division boundaries in counties that are split between districts;

   b. a map of the seven-county metropolitan area showing proposed districts, minor civil division boundaries, and census tract boundaries;

   c. a map of the cities of St. Paul and Minneapolis showing city boundaries, street names, and census tract boundaries and, where census tracts are split, block boundaries;

d. a map of each municipality not wholly within one district or containing more than one whole district, showing census tract or enumeration district, block groups and block boundaries, where available;

e. a table showing the name or number designation and population of all proposed districts; the numerical and percentage deviation from the ideal district size of each district, the average deviation for all districts, and the total deviation for the state;

f. a table showing each county, minor civil division, and census tract that will lie in more than one proposed legislative district and including the population of each subunit so divided;

g. an additional table showing and report explaining how the parts of any divided unit add up to equal the populations of other complete districts and explaining discrepancies, if any, and a final addition of all district populations to a state total;

h. a table divided by legislative house ranking each district by percentage deviation and showing the district number, its population, and its population or numerical deviation;

i. a calculation of the population required to elect a majority of each legislative body;

j. a calculation of the ratio between the highest and lowest population district; and

k. a calculation of the mean deviation of all districts.

VI.
Pending Motions

Defendant-Intervenors' Motion to Amend

10. The Minnesota Legislature has moved to supplement and amend its answer by adding a claim for declaratory judgment. The counterclaim seeks a declaration that any court-ordered state legislative redistricting plan must make only those changes to Minnesota Laws 1991, Chapter 246 which are (1) necessary to correct constitutional or Voting Rights Act defects, (2) which respect the integrity of that law, and (3) which are consistent with the legislative history.

The counterclaim relates to events which have occurred since the date of the party's original pleading. Although significant issues have been raised relating to the propriety of granting a declaratory judgment, amendment is ordinarily freely granted, unless doing so would result in undue prejudice to the adverse party. See Wilson v. City of Eagan, 297 N.W.2d 146, 151 (Minn. 1980).

Neither the plaintiffs nor the plaintiff-intervenors would be significantly prejudiced by our allowing the requested amendment at this time. Accordingly, permission to amend to add a counterclaim for declaratory judgment is granted. However, we caution that, by granting the defendants' motion, we express no opinion on the merits of the claim.

Plaintiff's Motions

11. Plaintiffs Cotlow, Krass, LaComb, Stein, and Suss have requested that the panel rule on whether

Minnesota Laws 1991, Chapter 246 meets the requirements of the Federal Voting Rights Act, 42 U.S.C. §1973 (1988). Specifically, plaintiffs move the court to (a) affirm Minnesota Laws 1991, Chapter 246 as recommended for correction by the August 26, 1991 action of the Minnesota House of Representatives and Minnesota Senate Committees on Redistricting as the sole and exclusive plan of legislative redistricting for use by the State of Minnesota. In the alternative, the plaintiffs move the court to (b) adopt Chapter 246 and its corrections and any modifications required by the Voting Rights Act or the Minnesota and U.S. Constitutions, or to (c) adopt Minnesota Laws 1991, Chapter 246 as recommended for correction as the court's plan.

These motions and related issues are set for oral argument on September 24, 1991 at 1:30 in Courtroom 200 of the Minnesota Judicial Building.

Plaintiff-Intervenors' Motion

12. On September 11, 1991, plaintiff-intervenors moved to stay the state court redistricting proceedings.

VII.
September 24, 1991 Oral Argument

13. At the oral argument on September 24, 1991, the parties are asked to address the following issues:

    a. Whether Minnesota Laws 1991, Chapter 246 violates the Minnesota or U.S. Constitutions or the Federal Voting Rights Act.

    b. The pending motions described in Section VI.

c. The panel's proposed schedule and the concept of a plan with a delayed effective date.

VIII.
Miscellaneous

14. The caption is amended to substitute the name of the present Hennepin County Auditor, Patrick H. O'Connor, for the former Hennepin County Auditor, Dale G. Folstad.

15. Peter S. Wattson, Senate Counsel, Minnesota State Senate is added as attorney of record for the Minnesota State Senate, in association with John D. French and Michael Cheever in this proceeding.

Dated: September 13, 1991

BY THE COURT:

Honorable Harriet Lansing
Honorable Kenneth J. Maas, Jr.
Honorable William E. Walker

Memorandum

In staying the time period for local governmental units to redefine their local election districts and in accelerating the schedule to complete a legislative redistricting plan, the panel is responding to two valid concerns. First, local officials must have adequate time to redraw ward and precinct boundaries, establish precinct polling locations, prepare for elections, and inform voters of all changes. Potential candidates must have adequate time to determine who their constituents will be and to establish residency. Voters must have adequate time to learn about the candidates and their positions. These interests require the

court to act swiftly in resolving any disputes relating to a final redistricting plan. Second, we recognize that the Minnesota Constitution places the power and the responsibility of redistricting with the state legislature and governor. They cannot act until January, 1992.

To balance the need for expediency with the appropriate deference to the legislative function, the panel is now considering, if no pending motions are dispositive, a delayed effective date of the legislative redistricting plan. This procedure would permit the legislature and governor the maximum opportunity to act and would also provide adequate notice to all concerned persons of the alternative in the event the legislature and governor cannot agree upon a constitutional plan. All persons would have sufficient time to thoroughly analyze the plan, so that any review of it could be expedited. This procedure would eliminate any concern about the timeliness of the state court proceeding and allow for orderly expedition of any appeal. These accommodations would permit important state issues to be determined within the state courts and prevent a duplication of time and effort in other forums.

The time requirements for fashioning a congressional redistricting plan are not so immediate. In considering the schedule for congressional redistricting, the panel, because of the reduced time pressure, is not required to act until the legislature has had an opportunity to complete a congressional redistricting plan.

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

C8-91-985

PRETRIAL ORDER NO. 4

Patricia Cotlow, Phillip Krass Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,
Plaintiffs,

and

John Walker, Howard Miller, Don Sudor, and Nkajlo Vangh,
Plaintiff-Intervenors,

vs.

Joan Growe, Secretary of State of Minnesota; and Patrick H. O'Connor, Hennepin County Auditor, individually and on behalf of all Minnesota county chief election officers,
Defendants,

and

The Seventy-seventh Minnesota

State House of Representatives
and the Seventy-seventh Minnesota
State Senate,

Defendant-Intervenors.

At oral argument on September 24, 1991, the parties addressed the issues designated in Pretrial Order No. 3: (1) whether Minnesota Laws 1991, Chapter 246 violates the Minnesota or U.S. Constitutions or the Federal Voting Rights Act; (2) plaintiff-intervenors' motion to stay these proceedings and, if denied, to certify the issue to the Minnesota Supreme Court as important and doubtful or otherwise provide for direct appeal; (3) plaintiffs and defendant-intervenors' motion to adopt Minnesota Laws 1991, Chapter 246 and proposed legislative amendments as the redistricting plan; and (4) defendant-intervenors' motion to add a criterion that any court-adopted plan for redrawing state legislative districts be based on Minnesota Laws 1991, Chapter 246 and limited to changes necessary to correct defects.

Based on the arguments, the memoranda submitted, and the prior proceedings, the court concludes and orders as follows:

I.

Constitutionality of Minnesota Laws 1991, Chapter 246

Article IV, section 2 of the Minnesota Constitution requires that representation in both the senate and house of representatives be "apportioned equally throughout the different sections of the state in proportion to the population thereof." Section 3 requires

senators to be chosen "by single districts of convenient contiguous territory," with no representative district divided in the formation of a senate district.

All parties acknowledge that Minnesota Laws 1991, Chapter 246 violates the constitutional commands of equal apportionment and contiguity. The parties disagree on whether the violations are technical or more deeply rooted. We conclude that numerous infirmities, including noncontiguous districts, invalidate Minnesota's present districting law, Minnesota Laws 1991, Chapter 246, under the Minnesota Constitution, Article IV, sections 2 and 3, and that further reapportionment is required to protect the rights of voters in this state.

We also conclude that Minnesota Laws 1991, Chapter 246 is invalid under the United States Constitution. The districting of Wayzata, Chatham Township, and New Hope, among others, violates the equality of representation requirement imposed by the fourteenth amendment to the United States Constitution. See Reynolds v. Sims, 377 U.S. 533, 84 S. Ct. 1362 (1964).

Plaintiff-intervenors have requested additional time to submit specific instances of violations of the Federal Voting Rights Act. This request was granted orally at the September 24 hearing.

II.

Motion to Stay

Plaintiff-intervenors move this court to stay its proceedings until completion of the proceedings of the United States District Court in Emison v. Growe, File No. 4-91-202 (D. Minn.). All other parties oppose this

motion. Because of the length of the requested stay, the motion is essentially for dismissal. Plaintiff-intervenors have failed to demonstrate why the state should abdicate its responsibility to redistrict.

This court has a duty to hear and determine cases properly before it. This action, filed January 24, 1991, was pending when Emison v. Growe was filed. The interests represented in these two proceedings are similar but are not necessarily the same. The Hennepin County Auditor has not been permitted to intervene in the federal suit and thus was unable to request the temporary stay of the local governments' time-restricted statutory obligation to redefine election districts, relief that this court granted in Pretrial Order No. 3. Plaintiff-intervenors have argued that violations of the Federal Voting Rights Act require federal jurisdiction, but acknowledge that their federal action does not include a claim that Chapter 246 violates that act.

The integrity of elections and the integrity of legislative apportionment are vital to this state's governance. The strong state interest in guaranteeing rights of political participation require maintaining control over reapportionment, a matter of particularly local concern. A state's judiciary, as well as its legislature, is charged with taking an active part in preserving these interests. See Scott v. Germano, 381 U.S. 407, 409, 85 S. Ct. 1525, 1527 (1965) ("The power of the judiciary of a State to require valid reapportionment or to formulate a valid redistricting plan has not only been recognized by this Court but appropriate action by the States in such cases has been specifically encouraged."); People v. Kerner, 32 Ill.2d 539, 546-49, 208 N.E.2d 561, 566-67 (1965); Kruidenier v. McCulloch, 257 Iowa 1315, 1318-19, 136 N.W.2d 546, 548 (Iowa 1965).

In addition, the Minnesota Constitution, while delegating the primary responsibility for reapportionment to the legislature, imposes various restrictions on redistricting plans, and it is the duty of state courts to ensure adherence to these constitutional mandates. See generally Minnesota State Bd. of Health v. City of Brainerd, 308 Minn. 24, 40 n. 5, 241 N.W.2d 624, 633 n. 5 (1976). Judicial economy and the potential duplication of proceedings are important considerations. However, our review of the cases persuades us that when state court proceedings over reapportionment have begun, those proceedings are rarely stayed and it is the federal courts that traditionally abstain. See Scott, 381 U.S. 407, 85 S. Ct. 1525; Badham v. United States Dist. Court, 721 F.2d 1170 (9th Cir. 1983); Grivetti v. Illinois State Electoral Bd., 335 F. Supp. 779 (N.D. Ill. 1971); Mahoney v. Burkhardt, 299 F. Supp. 787 (D. N.J. 1969); Ince v. Rockefeller, 290 F. Supp. 878 (S.D. N.Y. 1968); Silver v. Jordan, 274 F. Supp. 882 (C.D. Cal. 1967); Kerner, 32 Ill.2d 539, 208 N.E.2d 561; Kruidenier, 136 N.W.2d 546; see also Bianchi v. Griffing, 393 F.2d 457 (2d Cir. 1968) (challenging county reapportionment); Board of County Comm'rs v. Hayden, 715 F. Supp. 313 (D. Kan. 1989) (challenging state census); Henson v. Atchley, 453 F. Supp. 555 (E.D. Tenn. 1978). But see Davis v. Mann, 377 U.S. 678, 84 S. Ct. 1441 (1964) (abstention not warranted when state law is unambiguous and no similar state court proceeding was pending); Ryan v. State Bd. of Elections, 661 F.2d 1130 (7th Cir. 1981) (abstention not warranted when no issues of state law are involved); Farnum v. Burns, 561 F. Supp. 83 (D. R.I. 1983) (no pending state action or ambiguous state law); Cummings v. Meskill, 341 F. Supp. 139 (D. Conn. 1972), rev. on other grounds 412 U.S. 735, 93 S. Ct. 2321 (1973); see also Licht v.

Quattrocchi, 454 A.2d 1210 (R.I. 1982) (based on same facts as Farnum). Plaintiff-intervenors have also moved to stay this proceeding to allow the legislature and governor opportunity to revise Minnesota Laws 1991, Chapter 246. There is no doubt that the legislature has the primary duty to apportion. See White v. Weiser, 412 U.S. 783, 794-95, 93 S. Ct. 2348, 2354 (1973). However, the state judiciary, as well as the state legislature, is under a duty to preserve proper and timely voting procedures to ensure the state's constitutional government.

Local officials must have adequate time to redraw ward and precinct boundaries, establish precinct polling locations, prepare for elections and inform voters of all changes. Candidates require time to assess and communicate with their constituencies and to establish residency. Voters require time to evaluate candidates and their positions. A valid plan must be in place in time for precincts to be drawn and for precinct caucuses to be conducted on schedule. This court is proceeding with a plan and timetable that will recognize these interests and still permit the legislature an opportunity to act.

III.

Appeal of Denial of Stay

Plaintiff-intervenors request that denial of their motion to stay be certified to the supreme court or that this court authorize a direct and expedited appeal. The decision to stay a proceeding is generally left to the discretion of the trial court. See Danner v. Capehart, 41 Minn. 294, 42 N.W.2d 1062 (1889); Green Tree Acceptance, Inc. v. Midwest Fed. Sav. & Loan Ass'n, 433

N.W.2d 140 (Minn. App. 1988). The denial of a motion to stay is not expressly appealable but could presumably be certified for review as an "important" and "doubtful" question. See Minn. R. Civ. App. 103.03(h). We acknowledge the sensitivity of the federalism issue and its potential statewide impact; however, the propriety of a stay is not so doubtful as to warrant the extra delay that would result from appellate review of the issue. There will be adequate time for appeal of the final Order. Plaintiff-intervenors' motion is, therefore, denied.

IV.

Adoption of Chapter 246 as Redistricting Plan

Both plaintiffs and defendant-intervenors have moved this court to accept the committee changes to Chapter 246 and hold, essentially, that Chapter 246, as amended and with any needed technical modifications, be adopted as Minnesota's legislative redistricting plan. At this stage in the proceedings, the parties have not had an opportunity to present full argument or evidence on the extent of the infirmities in Chapter 246 and the significance of the proposed legislative amendments. The motion to adopt Chapter 246 and proposed amendments is premature and consequently denied. An order to show cause that would provide for arguments before the court would inject an additional stage in these proceedings which would cause delay. The objectives sought by the motion, if appropriate, can be achieved under the present schedule through alternative procedural means.

V.

Proposed Additional Criterion that Court-Adopted Plan be Based on Chapter 246

The defendant-intervenors have moved for the addition of a criterion that any court-adopted legislative plan be based on Minnesota Laws 1991, Chapter 246. Case law compels us to adhere as closely as possible to the intent of the legislature, as embodied in the redistricting legislation. See White, 412 U.S. 783, 93 S. Ct. 2348. We adopt as an additional criterion that all submitted plans should be based on Minnesota Laws 1991, Chapter 246.

By adopting this criterion, we do not intend to restrict unduly the parties' right to challenge specific defects in the present redistricting plan or to recommend appropriate modifications. We decline to adopt the legislative committees' proposed corrections to Chapter 246 as criteria for the parties' plans. The parties may argue that these recommended amendments are appropriate and should be considered, but, because they were not enacted into law, we decline to accept the amendments as part of our criteria.

VI.

Summary

In summary, this court orders as follows:

1. The numerous defects, including noncontiguous districts, in Minnesota Laws 1991, Chapter 246 violate Article IV, sections 2 and 3 of the Minnesota Constitution. The current districting also violates the equality of representation requirement of the United States Constitution. A

plan free from constitutional infirmities must be adopted.

2. Plaintiff-intervenors' motion to stay this proceeding is denied.

3. Plaintiff-intervenors' motion for this court to certify the propriety of a stay or, in the alternative, to authorize an expedited and direct appeal of this issue to the Minnesota Supreme Court is denied.

4. Defendant-intervenors' motion to adopt as an additional criterion that any court-adopted legislative plan be based on Minnesota Laws 1991, Chapter 246 is granted.

5. Plaintiffs' motion to enforce Minnesota Laws 1991, Chapter 246, together with amendments proposed by the legislative committees on redistricting, as the reapportionment plan for the State of Minnesota, is denied.

6. The parties' oral request for an alternative format for their proposed redistricting plan is granted. At a minimum, the submitted plans must include:

   a. A map of the state showing proposed districts, as well as counties and minor civil divisions (MCD's).

   b. A map of the seven-county metropolitan area showing proposed districts, as well as counties and MCD's.

c. A map of the Cities of St. Paul and Minneapolis showing city boundaries, as well as MNDoT features and annotations (highways, streets, roads, and their names).

d. Detailed maps and/or written descriptions defining the boundaries of proposed legislative districts that split a MCD along VTD (voting tally district or precinct) or tract block bounds.

e. A district population report showing the population for each district, the deviation from the standard for each district, average deviation for all districts, and total deviation for the state.

f. A district census units report showing each complete census unit (counties, MCD's, VTD's, and tract blocks) and the associated population for each proposed district.

g. A political subdivision splits report showing each county, MCD, or VTD that will lie in more than one proposed legislative district.

7. The parties' written arguments on Chapter 246 violations of the Federal Voting Rights Act must be submitted by October 7, 1991. Responses must be received by October 14, 1991.

IT IS SO ORDERED.

Dated: October 1, 1991

BY THE COURT:

Honorable Harriet Lansing
Honorable Kenneth J. Maas, Jr.
Honorable William E. Walker

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

C-8-91-985

PRETRIAL ORDER NO. 5

Patricia Cotlow, Phillip Krass
Sharon LaComb, James Stein, and
Theodore Suss, individually and
on behalf of all Citizens of
Minnesota similarly situated,

Plaintiffs,

and

John Walker, Howard Miller,
Don Sudor, and Nkajlo Vangh,

Plaintiff-Intervenors,

vs.

Joan Growe, Secretary of State
of Minnesota; and Patrick H.
O'Connor, Hennepin County Auditor,
individually and on behalf of all
Minnesota county chief election
officers,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives
and the Seventy-seventh Minnesota
State Senate,

Defendant-Intervenors.

At oral argument on October 16, 1991, this panel requested that the parties reserve Thursday, November 14, 1991, for additional argument if required. To assist the panel in its review of Minnesota Laws, 1991, Chapter 246, and its development of a constitutionally sound, redistricting plan, the panel orders that a supplemental oral argument shall be held on November 14, 1991, at 1:30 p.m., in the Minnesota Judicial Center, Courtroom 200, to consider the following issues:

I.
Voting Rights Act Challenges

The parties have previously argued the applicability and justiciability of Voting Rights claims in this proceeding. The upcoming hearing is intended as a final opportunity to specify all particular challenges to Chapter 246 under the Voting Rights Act.

II.
Legislative History of Chapter 246

The parties should address the propriety of relying on legislative history to avoid, modify, or correct constitutional or other defects in Chapter 246. References have been made to various maps used in committee and presented during floor debate on Chapter 246. The panel requires information

on the existence and availability of any redistricting maps and population data tables used in the legislative process before and during enactment of Chapter 246. The parties should focus on whether such maps or tables

i. constitute part of the redistricting law itself;

ii. constitute part of the law's legislative history; and

iii. whether the maps can be used, if part of the law's legislative history, only to resolve ambiguities or more generally to avoid specific findings of unconstitutionality.

All such maps and tables should be submitted to the panel at or before the hearing scheduled for November 14, 1991. The parties are encouraged to stipulate to the authenticity and appropriate use of such materials. Absent agreement, however, the court requests submission of appropriate, authenticating affidavits.

III.
Specific Problems

Through the parties various submissions and an independent review of Chapter 246, the panel has identified numerous errors in the text of the redistricting plan. Not all of these defects are of constitutional significance. The following is a partial, categorized list of problems to which the parties should respond in two ways: first, by addressing generally the scope of the court's authority to resolve each type of defect; and, second, by specifying appropriate corrections for each defect. This list is illustrative only; the parties are strongly encouraged to submit their own detailed lists of errors and recommended remedies.

A. Clarifications.

Many of the problems in Chapter 246 involve ambiguities that can be resolved by reference to the surrounding text. The panel is inclined to treat such problems as technical errors warranting clarification but not requiring particularized justification. See Silver v. Brown, 48 Cal. Rptr. 609, 409 P.2d 689 (1966); Miller v. Schaffer, 320 A.2d 1 (Conn. 1972). Examples include:

1. Senate district 51. The description of the boundary around the portion of the city of Hugo included in this district is ambiguous, but the street references are sufficiently clear that the intended boundary is discernible. A minor directional clarification would correct the problem.

2. Senate district 53. Chapter 246 erroneously refers to Otter "Tail" Road. There is no such road in the area being described; however, reference to an ordinary street map indicates that Otter Lake Road was apparently intended. The similarity in names seemingly permits minor correction.

3. Senate district 54. Atlantic Street and the railroad right-of-way described do not meet, but both are plausible boundaries, and an intersection between the two could be accomplished by implying a straight-line extension from each.

B. Noncontiguous districts.

Chapter 246 contains some defects that create noncontiguous districts, in violation of Minn. Const. Art. IV, § 3. Examples include:

1. Senate districts 53, 54 and 55. The boundary

between senate districts 54 and 55 is specifically described under each, but the descriptions do not coincide. A gap consisting of the block between Atlantic Street and Chamber Street results. Any portion of the city of Maplewood not included in senate districts 54, 55, or 57 is assigned to senate district 53. Because this particular block is not connected to the rest of senate district 53, the district is not contiguous.

2. Senate district 5. Angora Township is specifically included in senate district 5, but the unorganized territories surrounding this township--Vermillion Lake, Sand Lake, and East Sand Lake--are not included in this district. By residual clause, they fall into senate district 6. Consequently, senate district 5 is not contiguous.

3. Senate district 31. Portions of Olmstead County not included in senate districts 28 or 30 are assigned to district 31. However, some of these areas, including portions of Cascade, Rochester, and Marion Townships are surrounded by areas included in senate district 30, leaving senate district 31 noncontiguous.

The parties should propose remedies for each of these and other contiguity problems and cite the justifications for their proposals.

C. Ambiguous boundaries, unassigned areas, and other geographic problems.

Various other defects in Chapter 246 affect not only the dividing lines between districts but also the district populations and the court's ability to calculate population deviations from ideal district size. Examples include:

1. House districts 52A and 52B. The description of the portion of New Brighton to be included in this district is vague. Even assuming that the legislature intended the line described to move easterly along 16th Street Northwest, this rectangular portion of the city creates a district of minimal contiguity--house district 52A--and a large disparity in populations between the two house districts.

2. Senate district 53. This district contains numerous problems. The line surrounding the portion of Blaine to be included is ambiguous, particularly near Flowerfield Road, and does not include the section of Blaine north of Circle Pines that the legislature's proposed plan includes in this district. The "extension" of County Road H2 to the shore of Bald Eagle Lake is indeterminate. The boundary around Gervais Lake, shared by senate district 54, is unclear and appears to leave lake-shore area unassigned.

3. Senate districts 25 and 35. The section of New Prague in Scott County is assigned to both of these districts.

The parties should address these and all other similar problems in Chapter 246 and recommend appropriate corrections with supporting rationale.

IV.
Legal Descriptions and Computer Files of Plans Submitted

The possibility that the nature and scope of the defects in Chapter 246 will invalidate the entire law, although remote, requires detailed review of each of the parties' alternative

redistricting plan. Maps and tables for the alternative plans have been submitted, in general accordance with the format for submission previously established by the panel. However, to improve the panel's ability to analyze these proposals, the panel has also found it necessary to request (1) computer access to each proposed plan file; and (2) legal descriptions of both plans.

The first of these requirements has been accomplished, although the parties have not afforded similar access to each other. The parties are directed to authorize mutual access to their respective computer plan files as soon as is reasonably possible.

The legislature has previously submitted a legal description of its proposed plan. The panel requests that the plaintiff-intervenors submit a similarly detailed, legal description of their proposed plan by November 14, 1991.

IT IS SO ORDERED.

Dated: November 8, 1991

BY THE COURT:
Honorable Harriet Lansing
Honorable Kenneth J. Maas, Jr.
Honorable William E. Walker

Memorandum

In Pretrial Order No. 4, this panel concluded that, due to certain obvious defects, Minnesota Laws 1991, Chapter 246, is unconstitutional on its face. In such a case, a court's first responsibility is to determine whether the errors in the plan are so pervasive as to invalidate it entirely, requiring adoption of an alternate plan; if the plan is not uncorrectably invalid, the court must ascertain the nature and scope of each error and modify the legislature's plan to the extent necessary to correct such defects. See Upham v. Seamon, 456 U.S. 37, 40-41, 102 S. Ct. 1518, 1520-21 (1982); Cook v. Luckett, 735 F.2d 912 (5th Cir. 1984).

Detailed analysis of Chapter 246 suggests that, although the law contains numerous errors affecting a significant number of districts, the defects are not so pervasive as to abridge the overarching requirement of judicial deference to legislative policy decisions, see White v. Weiser, 412 U.S. 783, 93 S. Ct. 2348 (1973), by developing an independent alternative plan. Absent persuasive argument establishing far-reaching, uncorrectable defects in Chapter 246, this panel is obliged to affirm those portions of the law that meet constitutional and statutory requirements and to limit the scope of its remedy to those areas in which substantial defects are present. The parties are accordingly advised of the court's evaluations in order to assist them to direct their arguments to issues properly within our scope of resolution.

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

C8-91-985

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PRELIMINARY ORDER FOR JUDGMENT ON LEGISLATIVE REDISTRICTING

Patricia Cotlow, Phillip Krass
Sharon LaComb, James Stein, and
Theodore Suss, individually and
on behalf of all Citizens of
Minnesota similarly situated,
Plaintiffs,

and

John Walker, Howard Miller,
Don Sudor, and Nkajlo Vangh,
Plaintiff-Intervenors,

vs.

Joan Growe, Secretary of State
of Minnesota; and Patrick H.
O'Connor, Hennepin County Auditor,
individually and on behalf of all
Minnesota county chief election
officers,
Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives
and the Seventy-seventh Minnesota
State Senate,

Defendant-Intervenors.

The Special Redistricting Panel convened hearings on July 26, August 29, September 24, October 16, and November 14, 1991.

Plaintiffs were represented by Alan W. Weinblatt, Weinblatt & Davis; plaintiff-intervenors were represented by Bruce D. Willis, Popham, Haik, Schnobrich & Kaufman, Ltd.; defendant Joan Growe, Secretary of State, was represented by John R. Tunheim, Chief Deputy Attorney General, and Jocelyn Olson, Assistant Attorney General; defendant Patrick H. O'Connor, Hennepin County Auditor, was represented by Michael O. Freeman, Hennepin County Attorney, and Toni A. Beitz, Senior Assistant Hennepin County Attorney; and defendant-intervenors were represented by John D. French and Michael L. Cheever, Faegre & Benson, and Peter S. Wattson, Senate Counsel.

All parties were directed to file legislative redistricting plans on October 7, 1991. The panel convened hearings on October 16 and November 14, 1991 for comments on the plans.

Based on the record received from the Minnesota District Court, Fourth Judicial District; the record compiled during the course of the hearings; and the submissions of the

parties; the panel makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. In January 1991, Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss initiated this action in Minnesota District Court, Fourth Judicial District. They asked the court to declare the present legislative apportionment, Minn. Stat. §§ 2.019, 2.042 through 2.702 (1990), and the present congressional apportionment, outlined in LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982), invalid under the Minnesota and United States Constitutions.

2. The plaintiffs further requested the court to retain jurisdiction during the 1991 session of the legislature to determine whether any legislatively enacted plans for redistricting satisfied the Minnesota and United States Constitutions and the Federal Voting Rights Act. In the absence of the enactment of a constitutionally valid method of apportionment by the legislature, the plaintiffs asked this court to make a determination of a proper legislative and congressional apportionment system for the State of Minnesota.

3. On February 15, 1991, John Walker, Howard Miller, Don Sudor, and Nkajlo Vangh served notice and statement of intervention. On March 14, 1991, plaintiffs served notice of objection to the intervention.

4. On February 25, 1991, the previously named plaintiffs and defendants Joan Growe and the Hennepin County Auditor stipulated that the court had subject

matter jurisdiction; that as a result of population changes reflected in the 1990 federal census, the present legislative and congressional districts contravene the Minnesota and United States Constitutions; and authorized the Chief Judge of the Hennepin County District Court to request the Chief Justice of the State of Minnesota to appoint a panel of three district court or appellate judges to hear and decide this action.

5. On April 2, 1991, the Minnesota House of Representatives and the Minnesota Senate served notice of intervention as defendants and a statement of intervention. No party objected.

6. On May 18, 1991, the legislature passed Chapter 246, S.F. No. 1571, establishing a legislative redistricting plan. The bill was presented to the governor on May 24, 1991.

7. On June 4, 1991, the Minnesota Supreme Court appointed the undersigned three-judge panel to hear and decide all matters, including all pretrial and trial motions, and to reach an ultimate disposition of this case.

8. On June 20, 1991, the Minnesota Supreme Court declined original jurisdiction on the question of the validity of the enactment of a number of bills, including Chapter 246, the legislative redistricting bill. A declaratory judgment action was filed in Ramsey County District Court.

9. On July 26, 1991, the special redistricting panel conducted a pretrial status conference and, on July 29, 1991, issued Pretrial Order No. 1 ordering (a) that John Walker, Howard Miller, Don Sudor, and

Nkajlo Vangh be permitted to intervene as plaintiff-intervenors; (b) that parties submit responses to the criteria adopted by the Minnesota Legislature for legislative and congressional redistricting plans; and (c) that arrangements be made to permit the panel to view the legislature's redistricting computer system.

10. on August 2, 1991, by order of Ramsey County District Court, Chapter 246 was declared to be a validly enacted law.

11. On August 16, 1991, the special redistricting panel issued Pretrial Order No. 2 establishing certain preliminary criteria for legislative and congressional redistricting and directing oral argument on other reserved criteria.

12. After the parties' arguments on the reserved criteria, the panel issued Pretrial Order No. 3 on September 13, 1991, adopting the final criteria for congressional and legislative redistricting. The criteria for legislative redistricting are as follows:

    1. The Senate must be composed of 67 members. The House of Representatives must be composed of 134 members.

    2. Each district is entitled to elect a single member.

    3. A representative district may not be divided in the formation of a Senate district.

    4. The districts must be substantially equal in population. The population of a district must not deviate from the ideal by more than two percent. Because a court-ordered reapportionment plan

must conform to a higher standard of population equality than a legislative reapportionment plan, de minimis deviation from the population norm will be the goal for establishing districts. See Chapman, 420 U.S. 1, 95 S. Ct. 751; Connor, 431 U.S. 407, 97 S. Ct. 1828.

5. The districts must be composed of convenient contiguous territory structured into compact units. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district.

6. The districts must be numbered in a regular series, beginning with House district 1A in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the seven-county metropolitan area until the southeast corner has been reached; then to the seven-county metropolitan area outside the cities of Minneapolis and St. Paul; then in Minneapolis and St. Paul.

7. The districts must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority makes it possible, the districts must increase the probability that members of the minority will be elected. Any plan adopted by the court shall comply with the applicable provisions of the Federal Voting Rights Act, 42 U.S.C. § 1971, et seq.

8. The districts will be drawn with attention to county, city and township boundaries. A county, city, or township will not be divided into more than one district except as necessary to meet equal population requirements or to form districts that

are composed of convenient, contiguous and compact territory. When any county, city or township must be divided into one or more districts, it will be divided into as few districts as practicable. Reynolds v. Sims, 377 U.S. 533, 578-79, 84 S. Ct. 1362, 1390-91 (1964); Swann v. Adams, 385 U.S. 440, 444, 87 S. Ct. 569, 572 (1967).

9. The districts should attempt to preserve communities of interest when that can be done in compliance with the preceding standards. The panel may recognize a community's character as urban, suburban or rural. See Skolnick v. State Electoral Bd. of Ill., 336 F. Supp. 839 (N.D. Ill. 1971); Lacomb v. Growe, 541 F. Supp. 145 (D. Minn. 1982); LaComb v. Growe, 541 F. Supp. 160 (D. Minn. 1982); Maryland Citizens Comm. for Fair Congressional Redistricting, Inc. v. Tawes, 253 F. Supp. 731 (D. Md. 1966), aff'd sub. nom. Alton v. Tawes, 384 U.S. 315, 86 S. Ct. 1590 (1966). Additional communities of interest shall be considered if persuasively established and not in violation of applicable case law.

10. Past voting behavior and residency of incumbents shall not be used as criteria; however, they may be used to evaluate the fairness of plans submitted to the court.

13. Subsequently, the panel adopted an additional criterion that all submitted plans should be based on Chapter 246. Defendant-intervenors, joined by other parties, urged the panel to adopt, as a criterion, certain "curative amendments" to Chapter 246. The amendments had passed out of the special redistricting committees of both houses on August 26,

1991, after the legislature had adjourned. However, the amendments had not been passed by the full bodies of either house, nor had they been presented to the governor for his signature. The panel declined to adopt as a criterion the legislative committees' proposed corrections to Chapter 246.

14. The August 29, 1991 Pretrial Order No. 3 also ordered suspension, until further order of the panel, of the time periods within which local units of government are required to complete the redefining of the boundaries of election precincts, wards, or other local election districts pursuant to Minn. Stat. Ann. §§ 204B.135, 204B.14, 205.84, 205A.12, and 375.02 (West Supp. 1991). The pretrial order designated the format for submission of redistricting plans and directed oral argument on various motions, including whether Chapter 246 violates the Minnesota or United States Constitutions or the Federal Voting Rights Act. Finally, recognizing that the time requirements for congressional redistricting are less stringent, the panel deferred submission of congressional redistricting plans.

15. Following submissions from the parties, the panel issued Pretrial Order No. 4, on October 1, 1991, which (a) denied plaintiff-intervenors' motion to stay this proceeding; (b) declared that the numerous facial infirmities in Chapter 246, including noncontiguous districts, violate Article IV, sections 2 and 3 of the Minnesota Constitution; and (c) declared that facial infirmities also violate the equality of representation requirement of the fourteenth amendment to the United States Constitution. The panel denied plaintiff's motion to enforce Chapter 246, together with its "curative amendments", as the reapportionment plan for the State of Minnesota.

Because no party submitted specific allegations of Voting Rights Act violations, the panel ordered submission of any Chapter 246 violations of the Federal Voting Rights Act without waiver of jurisdictional objections by October 7, 1991.

16. On October 7, 1991, defendant-intervenors the Minnesota Legislature renewed its submission of Chapter 246 together with the curative amendments adopted by the Senate and House committees on Redistricting; plaintiffs proposed adoption of the legislature's plan, with curative amendments, as the court-ordered legislative redistricting plan; defendant Secretary of State Growe supported the submission of the legislature; defendant Hennepin County Auditor supported the submission of the legislature; plaintiff-intervenors submitted a proposed legislative redistricting plan. The panel received additional submissions, not part of the record, from citizens groups and individual legislators.

17. No violations of the Federal Voting Rights Act were asserted.

18. On October 15, 1991, defendant-intervenors the Minnesota Legislature submitted a written response to the plaintiff-intervenors' proposed legislative redistricting plan. On October 16

    (a) defendant Growe submitted a written response to plaintiff-intervenors' proposed legislative redistricting plan;

    (b) plaintiff-intervenors submitted a written response to the legislature's redistricting plan; and

(c) defendant Hennepin County Auditor submitted a written analysis of the plaintiff-intervenors' plan. On October 17 and 18, 1991, defendant-intervenor the Minnesota Legislature submitted additional responses to the plaintiff-intervenors' redistricting plan.

19. On November 4, 1991, defendant-intervenor the Minnesota Legislature submitted a congressional redistricting plan. The plan is based on S.F. No. 1597/H.F. No. 1728, adopted by the House of Representatives Committee on Redistricting and the Senate Committee on Redistricting on October 30 and 31, 1991, and referred to the full House and Senate for consideration in early January, 1992.

20. On November 8, 1991, the panel issued Pretrial Order No. 5 ordering final oral argument on (a) the existence and use of any legislative history of Chapter 246, including maps, and (b) the application of the rules of statutory interpretation to avoid, modify, or correct constitutional or other defects in Chapter 246. In addition, the panel ordered that all parties have computer access to each proposed plan file and written geographic description of both plans.

21. On November 14, 1991, defendant-intervenors the Minnesota Legislature submitted a memorandum on Chapter 246's legislative history, appending affidavits of State Representative Peter Rodosovich, State Senator Lawrence J. Pogemiller, and Craig Lindeke from the Revisor of Statutes Office. The panel has adopted the following as relevant pieces of legislative history:

a. A set of two small black and white maps, one of the state and one of the metropolitan area. These

maps were distributed to each member of the House in the House chamber on May 18, 1991, before the members voted on Chapter 246. These two maps were also distributed to each member of the Senate in the Senate chambers on May 16, 1991, before the members voted on Chapter 246. In each instance, the chief authors of the bill represented that the proposed redistricting plan was depicted in the two black and white maps.

b. A second map group consisting of four large color maps depicting respectively the areas of

(1) the State of Minnesota,

(2) the seven-county metropolitan area,

(3) the City of Minneapolis, and

(4) the City of St. Paul.

The maps were used in both the House and Senate committees and displayed in the House retiring room on May 17, 1991, the House chamber on May 18, 1991, the Senate retiring room on May 16, 1991, and in the Senate chamber on May 16, 1991.

c. A group of seven reports, primarily population tables. Three of the reports were distributed to members of the House on May 18, 1991, before they voted on Chapter 246. Three of the reports were distributed to all members of the Senate on May 18, 1991, before they voted on Chapter 246. The remaining report was distributed to the members of the Senate Redistricting Committee on May 3, 1991.

CONCLUSIONS OF LAW

1. Minnesota Laws 1991, Chapter 246, violates Article IV, sections 2 and 3 of the Minnesota Constitution because, among other defects, it creates noncontiguous districts.

2. Minnesota Laws 1991, Chapter 246 violates the equality of representation requirement of the fourteenth amendment of the United States Constitution.

3. Unless a legislative plan is incorrectably invalid, a court may not simply substitute its own reapportionment preferences for those of the state legislature. See Upham v. Seamon, 456 U.S. 37, 40-42, 102 S. Ct. 1518, 1520-21 (1982). Courts are not permitted to disregard state apportionment policy or plans without solid constitutional grounds for doing so. White v. Weiser, 412 U.S. 783, 795, 93 S. Ct. 2348, 2355 (1973) (citing Whitcomb v. Chavis, 403 U.S. 124, 160, 91 S. Ct. 1858, 1878 (1971)). The court must reconcile constitutional requirements with the goals of state political policy by limiting its modifications "to those necessary to cure any constitutional or statutory defect." Upham 456 at 43, 102 S. Ct. at 1522; see also Rybicki v. State Bd. of Elections, 574 F. Supp. 1082 (N.D. Ill. 1982) (making only those corrections necessary to remove unconstitutional defects). Such deference does not extend to the curative amendments, as they have not been adopted into law.

4. Most of the constitutional and statutory defects in Minnesota Laws 1991, Chapter 246 can be cured by ascertaining and effectuating the legislative intent see Minn. Stat. § 645.16 (1990); and by applying

canons of statutory construction, Minn. Stat. §§ 645.16 through 645.43 (1990). The remaining defects require corrections and adjustments which are based on legislative policy and the adopted legislative redistricting criteria. These corrections and adjustments are made in the attached plan and explained in the annotations that will accompany the final redistricting order.

5. Minnesota Laws 1991, Chapter 246 contains no Federal Voting Rights Act violation.

BASED ON THE ENTIRE RECORD,
IT IS HEREBY ORDERED:

1. That the following reapportionment of the Minnesota Legislature, subject to amendments after the final December 3, 1991 hearing, shall be effective for the 1992 primary and general elections unless a constitutional plan is enacted by the State of Minnesota before January 21, 1992.

2. Elections conducted after January 1, 1993 shall be according to this plan or any constitutional plan adopted after this date by the State of Minnesota.

3. Submission of plans for congressional redistricting is deferred until further order of this court.

4. Subject to reconsideration following December 3 oral arguments, the stay of time periods for completion of redistricting for local units of government is dissolved on the date of the final order.

5. The panel retains jurisdiction over this matter to ensure that any bill enacted into law complies with

the Minnesota and United States Constitutions and the Federal Voting Rights Act.

Dated: November 21, 1991

BY THE COURT:

/S/
Honorable Harriet Lansing

/S/
Honorable Kenneth J. Maas

/S/
Honorable William E. Walker

Memorandum

The Minnesota Constitution places the power and responsibility of redistricting with the legislature and the governor. Minn. Const., art. IV, §§ 3, 24. In the last 78 years, however, Minnesota's redistricting rule has become its exception. Only once during this time have the legislature and the governor been able to pass a redistricting plan. Consequently, the redistricting courts have been compelled to assume a more legislative role to adjust for the detrimental lack of a "current expression of the state's political preferences regarding the complicated redistricting process." LaComb v. Growe, 541 F. Supp. 145, 150-51 (D. Minn. 1982).

Following the 1990 federal census, the 1991 Minnesota House and Senate were able to pass Chapter 246, S.F. No. 1569, prescribing the boundaries of Minnesota's legislative districts. This bill was subsequently determined to be validly enacted law. The United States Supreme Court has consistently declared that when a state has enacted a redistricting plan, courts may not pre-empt the redistricting responsibility or intrude on state policy unless necessary to correct an unconstitutional plan.

A court's first responsibility is to determine whether any errors in an enacted plan are so pervasive as to invalidate it entirely, requiring adoption of an alternate plan. If the plan is not incorrectably invalid, the court must ascertain the nature and scope of each error and modify the legislative plan to the extent necessary to correct such defects.

Our detailed analysis of Chapter 246 demonstrates that there are numerous errors in Chapter 246 as enacted. The legislature's curative amendments propose approximately 160 changes in 65 pages of text. Some of the proposed

amendments clarify wording and are only refinements in language which are not necessary to discern the boundaries of districts. Other proposed changes, however, point to substantive errors requiring changes to correct defects in the statute.

In addressing the needed substantive changes, some corrections are obvious, and there is no need to employ the rules of statutory construction or to refer to legislative history. In other instances, the errors can be rectified by reference to the context of the language, the geographic context of the district or by referring to the maps or tables which form part of the legislative history. In the remaining instances where corrections and adjustments are required and legislative intent does not provide direction, we have drawn the boundaries by attempting to preserve surrounding constitutional boundaries, and by examining the submissions of the parties and weighing these and other alternatives against our adopted criteria. In no instance have we found the problems to be so incorrectable that the basic plan must be abandoned.

Plaintiff-intervenors have urged acceptance of a substantially different plan with better numerical balance. We recognize that the primary objective of redistricting is to achieve population equality in all state districts. Courts have, however, uniformly recognized that population deviations of ten percent or less in legislative plans do not affect the plan's constitutionality. The limited population deviations in the corrected Chapter 246 are in almost all instances well within the stated two percent goal. To accept an alternative plan with slightly lower population deviations over an enacted legislative plan would require us to disregard an entire body of established redistricting case law.

Plaintiffs have requested that we also establish boundaries for congressional districts. Although we have established

criteria for a congressional redistricting plan, we have deferred action until the legislature and the governor have an opportunity to enact a constitutional plan. One plan has been reported out of the committees and the legislature is scheduled to meet from January 6 through January 17, 1992, to consider the issue.

The reasons to proceed in reviewing the legislative redistricting plan have been fully addressed in our preceding orders. In keeping with the parties' requests, we are attempting to have final reapportionment in place in advance of the February precinct caucuses and to provide some certainty to local units of government who are anxious to begin their own redistricting process. We accept the principle established in Scott v. Germano, 381 U.S. 407, 409, 85 S. Ct. 1525, 1527 (1965), that state courts have a primary obligation to review redistricting issues. By proceeding as swiftly as possible, we intend to provide any time necessary for an orderly appeal process and to avoid any duplicative litigation in the federal courts. Finally, our extended analysis of Chapter 246 has left us with an enduring realization that drawing accurate and verifiable legislative boundaries for Minnesota's 201 districts is a complex and time consuming operation. In the interest of specificity and exactness, we want to provide sufficient time to examine and exclude any technical errors. Permitting the parties to examine the preliminary legislative redistricting and identify any errors before the final December 3, 1991 hearing and adoption should aid in this process.

PRELIMINARY LEGISLATIVE REDISTRICTING

The following changes to boundaries of legislative districts are subject to final submission of parties by November 27, 1991 and argument on December 3, 1991. The legislative format is retained to facilitate comparison of changes. Additions to Chapter 246 have been underscored.

SEC. 2. 2.043 [FIRST DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 1 consists of all of Kittson, Lake of the Woods, Marshall, Pennington, Red Lake, and Roseau Counties, and that portion of Polk County consisting of Angus Township, Belgium Township, Brandt Township, Brislet Township, the city of East Grand Forks, Esther Township, Euclid Township, Farley Township, Grand Forks Township, Helgeland Township, Higdem Township, Huntsville Township, Keystone Township, Northland Township, Rhinehart Township, Sandsville Township, Sullivan Township, and Tabor Township.

Subd. 2. [HOUSE DISTRICTS.] Senate district 1 is divided into two house districts as follows:

a. House district 1A consists of that portion of senate district 1 not included in house district 1B.

b. House district 1B consists of all of Pennington and Red Lake Counties, that portion of Polk County contained in senate district 1, and that portion of Marshall County consisting of the city of Alvarado, Boxville Township, Comstock Township, McCrea Township, Oak Park

Township, the city of Oslo, Vega Township, the city of Viking, Viking Township, the city of Warren, and Warrenton Township.

Sec. 3. 2.053 [SECOND DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 2 consists of all of Clearwater, Mahnomen, and Norman Counties, that portion of Becker County not included in senate district 9 or 11, that portion of Beltrami County consisting of Alaska Township, Battle Township, Benville Township, the city of Blackduck, Buzzle Township, Cormant Township, Durand Township, the city of Funkley, Hagali Township, Hamre Township, Hines Township, Hornet Township, the city of Kelliher, Kelliher Township, Langor Township, Lee Township, Liberty Township, the unorganized territory of Lower Red Lake, Maple Ridge Township, Minnie Township, Nebish Township, the unorganized territory of North Beltrami, O'Brien Township, Quiring Township, Roosevelt Township, Shooks Township, Shotley Township, the unorganized territory of Shotley Brook, Spruce Grove Township, Steenerson Township, Summit Township, the unorganized territory of Upper Red Lake, Waskish Township, and Woodrow Township, that portion of Clay County consisting of the city of Felton, Felton Township, Flowing Township, the city of Georgetown, Georgetown Township, Goose Prairie Township, Hagen Township, Keene Township, Kragnes Township, Morken Township, the city of Ulen, Ulen Township, and Viding Township, and that portion of Polk County not included in senate district 1.

Subd. 2. [HOUSE DISTRICTS.] Senate district 2 is

divided into two house districts as follows:

a. House district 2A consists of all of Norman County, that portion of Becker County consisting of Atlanta Township, Cuba Township, Hamden Township, Riceville Township, Spring Creek Township, and Walworth Township, that portion of Clay County in senate district 2, that portion of Mahnomen County consisting of the city of Bejou, Bejou Township, Chief Township, Gregory Township, the city of Mahnomen, Marsh Creek Township, Pembina Township, Popple Grove Township, Rosedale Township, and the city of Waubun, and that portion of Polk County consisting of Andover Township, Badger Township, the city of Beltrami, Bygland Township, the city of Climax, the city of Crookston, Crookston Township, the city of Erskine, Fairfax Township, Fanny Township, the city of Fertile, the city of Fisher, Fisher Township, Garden Township, Garfield Township, Gentilly Township, Godfrey Township, Grove Park Township, Hammond Township, Hubbard Township, Kertsonville Township, King Township, Knute Township, Liberty Township, Lowell Township, the city of McIntosh, the city of Mentor, Nesbit Township, the city of Nielsville, Onstad Township, Parnell Township, Reis Township, Roome Township, Russia Township, Scandia Township, Sletten Township, Tilden Township, Tynsid Township, Vineland Township, the city of Winger, Winger Township, and Woodside Township.

b. House district 2B consists of that portion of

senate district 2 not included in house district 2A.

Sec. 4. 2.063 THIRD DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 3 consists of all of Itasca County except the unorganized territory of Bowstring Lake, that portion of Aitkin County consisting of the city of Aitkin, Aitkin Township, Ball Bluff Township, Balsam Township, Cornish Township, Fleming Township, the city of Hill City, Hill Lake Township, Jevne Township, Libby Township, Logan Township, Macville Township, Morrison Township, the unorganized territory of Northeast Aitkin, the unorganized territory of Northwest Aitkin, the city of Palisade, Spencer Township, Turner Township, Verdon Township, Waukenabo Township, and Workman Township, that portion of Koochiching County not included in senate district 6, and that portion of St. Louis County consisting of Alango Township, Fine Lakes Township, the city of Floodwood, Floodwood Township, French Township, Halden Township, Linden Grove Township, the unorganized territory of McCormack Lake (59-21), Morcom Township, Prairie Lake Township, that portion of the unorganized territory of Northwest St. Louis consisting of precinct 62-21, that portion of the unorganized territory of Sand Lake consisting of the precinct of West Sand Lake (60-20), and Sturgeon Township.

Subd. 2. HOUSE DISTRICTS. Senate district 3 is divided into two house districts as follows:

a. House district 3A consists of that portion of senate district 3 not included in house district 3B.

b. House district 3B consists of that portion of Aitkin County included in senate district 3, that portion of Itasca County consisting of Blackberry Township, the city of Bovey, the city of Coleraine, Feeley Township, Goodland Township, Grand Rapids Township, Greenway Township, Harris Township, Iron Range Township, the city of Keewatin, the unorganized territory of Little Sand Lake, Lone Pine Township, Nashwauk Township, Sago Township, Splithand Township, Trout Lake Township, the city of Warba, Wawina Township, and Wildwood Township, and that portion of St. Louis County consisting of Fine Lakes Township, the city of Floodwood, Floodwood Township, Halden Township, and Prairie Lake Township.

Sec. 5. 2.073 [FOURTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 4 consists of all of Hubbard County, that portion of Beltrami County not included in senate district 2, that portion of Cass County not included in senate district 12, that portion of Itasca County not included in senate district 3, and that portion of Wadena County not included in senate district 11.

Subd. 2. HOUSE DISTRICTS. Senate district 4 is divided into two house districts as follows:

a. House district 4A consists of that portion of Beltrami County in senate district 4, and that portion of Hubbard County consisting of the city of Akeley, Akeley Township, Arago Township, Clay Township, Clover Township, Farden

Township, Fern Township, Guthrie Township, Hart Lake Township, Helga Township, Hendrickson Township, Lake Alice Township, Lake Emma Township, Lake George Township, Lake Hattie Township, Lakeport Township, the city of Laporte, Mantrap Township, Rockwood Township, Schoolcraft Township, Steamboat River Township, Thorpe Township, and White Oak Township.

b. House district 4B consists of that portion of senate district 4 not included in house district 4A.

Sec. 6 2.083 [FIFTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 5 consists of that portion of St. Louis County consisting of Alborn Township, Angora Township, Arrowhead Township, Balkan Township, the city of Biwabik, Biwabik Township, the city of Brookston, the city of Buhl, Cedar Valley Township, Cherry Township, the city of Chisholm, Clinton Township, Colvin Township, Cotton Township, Culver Township, Ellsburg Township, Elmer Township, Embarrass Township, the city of Eveleth, Fayal Township, the city of Franklin, the city of Gilbert, Great Scott Township, the unorganized territory of Hay Lake, the unorganized territory of Heikkila Lake, the city of Hibbing, the city of Iron Junction, the unorganized territory of Janette Lake, Kelsey Township, Kugler Township, **that portion of the unorganized territory of Lake Vermilion consisting of Vermilion Lake Precinct (62-17)**, Lavell Township, the city of Leonidas, McDavitt Township, the city of McKinley, the city of Meadowlands, Meadowlands Township, the city of Mountain Iron, Hess Township, New Independence

Township, Northland Township, Payne Township, Pike Township, the unorganized territory of Potshot Lake, **that portion of the unorganized territory of Sand Lake consisting of the precincts of East Sand Lake (59-18), 60-18, and 60-19**, Sandy Township, Stoney Brook Township, Toivola Township, Van Buren Township, Vermilion Lake Township, the city of Virginia, White Township, and Wuori Township.

Subd. 2. HOUSE DISTRICTS. Senate district 5 is divided into two house districts as follows:

a. House district 5A consists of that portion of senate district 5 not included in house district 5B.

b. House district 5B consists of that portion of St. Louis County consisting of Alborn Township, Arrowhead Township, Balkan Township, the city of Brookston, the city of Buhl, Cedar Valley Township, Cherry Township, the city of Chisholm, Clinton Township, Cotton Township, Culver Township, Ellsburg Township, Elmer Township, Great Scott Township, the city of Hibbing, the city of Iron Junction, the unorganized territory of Janette Lake, Kelsey Township, Lavell Township, McDavitt Township, the city of Meadowlands, Meadowlands Township, Hess Township, New Independence Township, Northland Township, Payne Township, the unorganized territory of Potshot Lake, Stoney Brook Township, Toivola Township, and Van Buren Township.

Sec. 7. 2.093 [SIXTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district

6 consists of all of Cook and lake Counties, that portion of Koochiching County consisting of the unorganized territory of Nett Lake, and that portion of St. Louis County not included in senate district 3, 5, 7, or 8.

Subd. 2. HOUSE DISTRICTS. Senate district 6 is divided into two house districts as follows:

a. House district 6A consists of that portion of senate district 6 not included in house district 6B.

b. House district 6B consists of that portion of St. Louis County consisting of Alden Township, North Star Township, Normanna Township, Gnesen Township, Rice Lake Township, Lakewood Township, Duluth Township, Canosia Township, and Fredenburg Township, and that portion of the city of Duluth not included in senate district 7.

Sec. 8. 2.103 [SEVENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 7 consists of that portion St. Louis County consisting of that portion of the city of Duluth lying west and south of a line described as follows: commencing at the intersection of the northern boundary of the city of Duluth and Calvary Road, easterly along Calvary Road to Woodland Avenue, southerly along Woodland Avenue to St. Marie Street, easterly along St. Marie Street to Wallace Avenue, southerly along Wallace Avenue to 5th Street, westerly along 5th Street to 21st Avenue, southerly along 21st Avenue to 4th Street, westerly along 4th Street to 15th Avenue, southeasterly along 15th Avenue to 1st Street, westerly along 1st Street to

12th Avenue East, southeasterly along 12th Avenue East to London Road, northeasterly along London Road to 13th Avenue East, southerly along 13th Avenue East and its extension to Lake Superior.

Subd. 2. HOUSE DISTRICTS. Senate district 7 is divided into two house districts as follows: a. House district 7B consists of that portion of senate district 7 lying east of a line described as follows: commencing at the intersection of the northern boundary of the city of Duluth and Rice Lake Road, southerly and southeasterly along Rice Lake Road **and Arrowhead Road** to Mesaba Avenue, southerly along Mesaba Avenue to 13th Street, easterly along 13th Street to 6th Avenue East, southerly along 6th Avenue East to State Highway 194, southwesterly along State Highway 194 to Mesaba Avenue, southerly along Mesaba Avenue to Lake Avenue, northerly along Lake Avenue to 9th Street, southwesterly along 9th Street to 1st Avenue West, northwesterly along 1st Avenue West **to Clark House Creek, northwesterly along Clark Rouse Creek to 13th Street, southwesterly along 13th Street to 5th Avenue West, southerly along 5th Avenue West** to 9th Street, southwesterly along 9th Street to **the intersection of 11th Avenue West and** Observation Road, northerly and westerly along Observation Road to Arlington Avenue, southerly along Arlington Avenue to U.S. Highway 53, southerly along U.S. Highway 53 to 14th Street, southwesterly along 14th Street to Miller Creek, southerly along Miller Creek to **an extension of 7th** Street, northeasterly along **the extension of 7th Street to 25th Avenue West, southeasterly along 25th Avenue West to 6th Street, northeasterly along 6th Street to** 22nd Avenue West, southeasterly

along 22nd Avenue West to Superior Street, northeasterly along Superior Street to 21st Avenue West, southeasterly along 21st Avenue West **to Interstate Highway 35, southwesterly along Interstate Highway 35 to Interstate Highway 535, southeasterly along Interstate Highway 535 and its extension** to St. Louis Bay.

b. House district 7A consists of that portion of senate district 7 not included in house district 7B.

Sec. 9. 2.113 [EIGHTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 8 consists of all of Carlton County, that portion of St. Louis County consisting of Brevator Township, the city of Hermantown, Industrial Township, Midway Township, the city of Proctor, and Solway Township, that portion of Aitkin County not included in senate district 3, and that portion of Pine County not included in senate district 18.

Subd. 2 HOUSE DISTRICTS. Senate district 8 is divided into two house districts as follows:

a. House district 8A consists of that portion of St. Louis County included in senate district 8, and that portion of Carlton County consisting of the city of Carlton, the city of Cloquet, the city of Scanlon, the city of Thomson, Thomson Township, and Twin Lakes Township.

b. House district 8B consists of that portion of senate district 8 not included in house district 8A.

Sec. 10 2.123 [NINTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 9 consists of all of Wilkin County, that portion of Becker County consisting of the city of Audubon, Audubon Township, Cormorant Township, Lake Eunice Township, the city of Lake Park, and Lake Park Township, that portion of Clay County not included in senate district 2, and that portion of Otter Tail County consisting of Carlisle Township, Dunn Township, the city of Elizabeth, Elizabeth Township, the city of Erhard, Erhards Grove Township, Lida Township, Maplewood Township, Norwegian Grove Township, Orwell Township, Oscar Township, Pelican Township, the city of Pelican Rapids, the city of Rothsay, Scambler Township, Trondhjem Township, and Western Township.

Subd. 2. HOUSE DISTRICTS. Senate district 9 is divided into two house districts as follows:

a. House district 9A consists of that portion of Clay County consisting of the city of Moorhead, **Moorhead Township, and those portions of Oakport Township surrounded by the city of Moorhead**.

b. House district 9B consists of that portion of senate district 9 not included in house district 9A.

Sec. 11 2.133 [TENTH DISTRICT.] Subdivision 1. SENATE DISTRICT. Senate district 10 consists of that portion of Douglas County not included in senate district 11 or 13, that portion of Otter Tail County not included in senate district 9 or 11, that portion of Pope County consisting of the city of Glenwood, Glenwood Township, Grove Lake Township, Leven Township, the city of Long Beach, Minnewaska Township, Reno Township, the city

of Villard, the city of Westport, and Westport Township, and that portion of Stearns County consisting of Ashley Township, Getty Township, Raymond Township, the city of Sauk Centre, and Sauk Centre Township.

Subd. 2. HOUSE DISTRICTS. Senate district 10 is divided into two house districts as follows:

a. House district 10A consists of that portion of Douglas County consisting of the city of Evansville, Evansville Township, Leaf Valley Township, Lund Township, the city of Millerville, Millerville Township, the city of Miltona, Miltona Township, and that portion of Otter Tail County included in senate district 10.

b. House district 10B consists of that portion of Senate district 10 not included in house district 10A.

Sec. 12. 2.143 [ELEVENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 11 consists of all of Todd County, that portion of Becker County consisting of Burlington Township, Detroit Township, the city of Detroit Lakes, Erie Township, the city of Frazee, and Lake View Township, that portion of Douglas County consisting of Belle River Township, the city of Osakis, Osakis Township, and Spruce Hill Township, that portion of Otter Tail County consisting of Biowers Township, the city of Bluffton, Bluffton Township, Butler Township, Candor Township, Compton Township, Corliss Township, the city of Deer Creek, Deer Creek Township, the city of Dent, Dora Township, Eastern Township, Edna Township, Gorman Township,

Hobart Township, Homestead Township, Newton Township, the city of New York Mills, Oak Valley Township, Otto Township, Paddock Township, the city of Perham, Perham Township, Pine Lake Township, the city of Vergas, the city of Wadena, and Woodside Township, that portion of Stearns County consisting of **the portion of** Melrose Township **not surrounded by the city of Melrose**, Millwood Township, and the city of St. Rosa, and that portion of Wadena County consisting of the city of Aldrich, Aldrich Township, Bullard Township, Leaf River Township, Red Eye Township, Rockwood Township, the city of Sebeka, the city of Staples, Thomastown Township, the city of Verndale, the city of Wadena, Wadena Township, and Wing River Township.

Subd. 2 HOUSE DISTRICTS. Senate districts 11 is divided into two house districts as follows:

a. House district 11A consists of that portion of Becker County included in senate district 11, that portion of Otter Tail County included in senate district 11, excluding Eastern Township, Oak Valley Township, and Woodside Township, and that portion of Wadena County consisting of Leaf River Township, Red Eye Township, Rockwood Township, the city of Sebeka, and the city of Wadena.

b. House district 11B consists of that portion of senate district 11 not included in house district 11A.

Sec. 13. 2.153 [TWELFTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 12 consists of all of Crow Wing County, that portion of Cass County consisting of the cities of Motley and Pillager, and that portion of Morrison County not included in senate district 14 or 17.

Subd. 2. HOUSE DISTRICTS. Senate district 12 is divided into two house districts as follows:

a. House district 12A consists of that portion of Crow Wing County consisting of the city of Brainerd, the city of Breezy Point, Center Township, the city of Crosby, the city of Crosslake, the city of Cuyuna, Dean Lake Township, the city of Emily, Fairfield Township, the city of Fifty Lakes, Gail Lake Township, Ideal Township, Irondale Township, the city of Ironton, the city of Jenkins, Jenkins Township, Lake Edwards Township, Little Pine Township, the city of Manhattan Beach, Mission Township, the city of Nisswa, Oak Lawn Township, Pelican Township, the city of Pequot Lakes, Perry Lake Township, Rabbit Lake Township, Ross Lake Township, Sibley Township, Timothy Township, the city of Trommald, the unorganized territory of West Crow Wing, and Wolford Township.

b. House district 12B consists of that portion of senate district 12 not included in house district 12A.

Sec. 14. 2.163 [THIRTEENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 13 consists of all of Big Stone, Grant, Lac qui Parle,

Stevens, Swift, and Traverse Counties, that portion of Chippewa County not included in senate district 15, that portion of Douglas County consisting of Holmes City Township, the city of Kensington, Solem Township, and Urness Township, and that portion of Pope County not included in senate district 10 or 14.

Subd. 2. HOUSE DISTRICTS. Senate district 13 is divided into two house districts as follows:

a. House district 13A consists of all of Grant, Stevens, and Traverse Counties, that portion of Big Stone County consisting of the city of Barry, Browns Valley Township, the city of Graceville, Graceville Township, Malta Township, Moonshine Township, and Toqua Township, that portion of Douglas County contained in senate district 13 that portion of Pope County contained in senate district 13, and that portion of Swift County consisting of the city of Appleton, Appleton Township, the city of Danvers, Edison Township, Fairfield Township, Hegbert Township, the city of Holloway, Marysland Township, Moyer Township, Shible Township, Tara Township, and West Bank Township.

b. House district 13B consists of that portion of senate district 13 not included in house district 13A.

Sec. 15. 2.173 [FOURTEENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 14 consists of that portion of Benton County consisting of the cities of Rice and Sartell, that portion of Morrison

County consisting of Bellevue Township, the city of Bowlus, the city of Elmdale, Elmdale Township, the city of Royalton, Swan River Township, Two Rivers Township, and the city of Upsala, that portion of Pope County consisting of Bangor Township, the city of Brooten, Lake Johanna Township, and the city of Sedan, and that portion of Stearns County not included in senate district 10, **11, 16, or 20.**

Subd. 2. HOUSE DISTRICTS. Senate district 14 is divided into two house districts as follows:

a. House district 14A consists of that portion of senate district 14 not included in house district 14B.

b. House district 14B consists of that portion of Pope County contained in senate district 14, and that portion of Stearns County consisting of the city of Belgrade, the city of Brooten, the city of Cold Spring, Collegeville Township, Crow Lake Township, Crow River Township, Eden Lake Township, the city of Elrosa, Fair Haven Township, Farming Township, the city of Freeport, the city of Greenwald, Grove Township, the city of Kimball Prairie, Lake George Township, the city of Lake Henry, Lake Henry Township, Luxemburg Township, Lynden Township, Maine Prairie Township, the city of Meire Grove, the city of Melrose, **the portion of Melrose Township surrounded by the city of Melrose,** Munson Township, the city of New Munich, North Fork Township, Oak Township, the city of Paynesville, Paynesville Township, the city of Richmond, the city of Rockville, Rockville

Township, the city of Roscoe, the city of St. Martin, St. Martin Township, the city of Spring Hill, Spring Hill Township, Wakefield Township, and Zion Township.

Sec. 16. 2.183 [FIFTEENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 15 consists of all of Kandiyohi and Renville Counties, that portion of Chippewa County consisting of the city of Granite Falls, and Granite Falls Township, that portion of McLeod County consisting of Collins Township, Lynn Township, and the city of Stewart, that portion of Meeker County consisting of Acton Township, the city of Cedar Mills, Cedar Mills Township, the city of Cosmos, Cosmos Township, Danielson Township, Greenleaf Township, and the city of Grove City, and that portion of Yellow Medicine County consisting of the city of Granite Falls.

Subd. 2 HOUSE DISTRICTS. Senate district 15 is divided into two house districts as follows:

a. House district 15A consists of that portion of Kandiyohi County consisting of Arctander Township, Burbank Township, Colfax Township, Dovre Township, Green Lake Township, Harrison Township, Irving Township, the city of Kandiyohi, Kandiyohi Township, Lake Andrew Township, Mamre Township, the city of New London, New London Township, Norway Lake Township, the city of Pennock, the city of Regal, Roseville Township, St. Johns Township, the city of Spicer, the city of Sunburg, the city of Willmar, and Willmar Township.

b. House district 15B consists of that portion of senate district 15 no included in house district 15A.

Sec. 17. 2.193 [SIXTEENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 16 consists of that portion of Stearns County consisting of St. Augusta Township, the city of St. Cloud, St. Cloud Township, and the city of Waite Park, and that portion of Benton County consisting of the city of Sauk Rapids, except that portion of the city of Sauk Rapids surrounded by Sauk Rapids Township, the portions of Sauk Rapids Township surrounded by the city of Sauk Rapids, and the city of St. Cloud, except that portion of the city of St. Cloud lying east of a line described as follows: commencing at the intersection of the eastern boundary of the city of St. Cloud and State Highway 23, southwesterly along State Highway 23 to 14th Avenue Southeast, southerly along 14th Avenue Southeast to County Road 47, easterly along County Road 47 to the eastern boundary of the city of St. Cloud.

Subd. 2. HOUSE DISTRICTS. Senate district 16 is divided into two house districts as follows:

a. House district 16A consists of that portion of Benton County in senate district 16, and that portion of Stearns County consisting of that portion of the city of St. Cloud lying east and north of a line described as follows: commencing at the intersection of the northern boundary of the city of St. Cloud and the extension of 25th Avenue North, southerly along the extension of 25th Avenue North to the Sauk River, southerly

and westerly along the Sauk River to **an extension of** 33rd Avenue North, southerly along **the extension and** 33rd Avenue North to 5th Street North, easterly along 5th Street North to 30th Avenue North, southerly along 30th Avenue North and 30th Avenue South to 1st Street South, easterly along 1st Street South to 25th Avenue South, northerly along 25th Avenue South and 25th Avenue North to 2nd Street North, easterly along 2nd Street North to Cooper Avenue North, southerly along Cooper Avenue North to West St. Germain Street, northeasterly along West St. Germain Street to **15th** Avenue South, southeasterly along **15th** Avenue South to **7th** Street South, **easterly** along **7th** Street South to **East Lake Boulevard South, northerly along East Lake Boulevard South to** 5th Street South, easterly along 5th Street South to 4th Avenue South, southerly along 4th Avenue South to 10th Street South, easterly along 10th Street south to the Mississippi River.

b. House district 16B consists of that portio of senate district 16 not included in house district 16A.

Sec. 18. 2.203 [SEVENTEENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 17 consists of Mille Lacs County, that portion of Benton County not included in senate district 14 or 16, that portion of Kanabec County not included in senate district 18, that portion of Sherburne County not included in senate district 19, and that portion of Morrison County

consisting of: the city of Buckman, Buckman Township, the city of Genola, Granite Township, the city of Harding, the city of Hillman, Hillman Township, Lakin Township, the city of Lastrup, Leigh Township, Morrill Township, Mount Morris Township, Pierz Township, Pulaski Township, and Richardson Township.

Subd. 2. HOUSE DISTRICTS. Senate district 17 is divided into two house districts as follows:

a. House district 17A consists of that portion of senate district 17 not included in house district 17B.

b. House district 17B consists of those portions of Benton and Sherburne Counties located in senate district 17.

Sec. 19. 2.213 [EIGHTEENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 18 consists of all of Chisago County, all of Isanti County, that portion of Kanabec County consisting of the city of Braham, Brunswick Township, Grass Lake township, the city of Grasston, and South Fork Township, and that portion of Pine County consisting of the city of Pine City, Pine City Township, the city of Rock Creek, and Royalton Township.

Subd. 2. HOUSE DISTRICTS. Senate district 18 is divided into two house districts as follows:

a. House district 18A consists of all of Isanti County, that portion of Chisago County consisting of Lent Township and the city of Stacy, that portion of

Kanabec County contained in senate district 18, and that portion of Pine County consisting of Royalton Township.

b. House district 18B consists of that portion of senate district 18 not included in house district 18A.

Sec. 20. 2.223 [NINETEENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 19 consists of that portion of Sherburne County consisting of the city of Becker, Becker Township, the city of Big Lake, Big Lake Township, the city of Clear Lake, Clear Lake Township, and the city of Elk River, and that portion of Wright County consisting of the city of Albertville, the city of Annandale, the city of Buffalo, Buffalo Township, Chatham Township, the city of Clearwater, Clearwater Township, Corinna Township, Frankfort Township, the city of Maple Lake, Maple Lake Township, the city of Monticello, Monticello Township, Otsego Township, the city of St. Michael, and Silver Creek Township.

Subd. 2. HOUSE DISTRICTS. Senate district 19 is divided into two house districts as follows:

a. House district 19A consists of that portion of senate district 19 not included in house district 19B.

b. House district 19B consists of that portion of Sherburne County consisting of the city of Elk River, and that portion of Wright County consisting of the city of Albertville, the city of

Buffalo, Buffalo Township, Frankfort Township, Otsego Township, and the city of St. Michael.

Sec. 21. 2.233 [TWENTIETH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 20 consists of that portion of Carver County consisting of the city of Hamburg, Hollywood Township, the city of Norwood, the city of Watertown, Watertown Township, the city of Young America, and Young America Township, that portion of McLeod County not included in senate district 15 or 23, that portion of Meeker County not included in senate district 15, that portion of Stearns County consisting of the city of Eden Valley, and that portion of Wright County not included in senate district 19, 33, or 34.

Subd. 2. HOUSE DISTRICTS. Senate district 20 is divided into two house districts as follows:

a. House district 20A consists of that portion of senate district 20 not included in house district 20B.

b. House district 20B consists of that portion of Carver County included in senate district 20, that portion of McLeod County consisting of Bergen Township, Hale Township, Helen Township, the city of Lester Prairie, the city of Plato, Rich Valley Township, the city of Silver Lake, the city of Winsted, and Winsted Township, and that portion of Wright County consisting of Albion Township, the city of Cokato, Cokato Township, French Lake Township, the city of Howard Lake, Marysville Township, Middleville Township, the

city of Montrose, the city of South Haven, Southside Township, Victor Township, the city of Waverly, and Woodland Township.

Sec. 22. 2.243 [TWENTY-FIRST DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 21 consists of all of Linccln, Pipestone, and Rock Counties, all of Lyon County except that included in senate district 22, all of Yellow Medicine County excluding the city of Granite Falls, that portion of Murray County consisting of Cameron Township, Chanarambie Township, the city of Chandler, Ellsborough Township, the city of Lake Wilson, and Moulton Township, that portion of Nobles County consisting of the city of Adrian, the city of Ellsworth, Grand Prairie Township, Leota Township, the city of Lismore, Lismore Township, and Westside Township, and that portion of Redwood County consisting of Gales Township, Granite Rock Township, Johnsonville Township, the city of Lucan, the city of Milroy, the city of Seaforth, Sheridan Township, Underwood Township, Vail Township, the city of Vesta, Vesta Township, the city of Wabasso, Waterbury Township, and Westline Township.

Subd. 2. HOUSE DISTRICTS. Senate district 21 is divided into two house districts as follows:

a. House district 21A consists of that portion of senate district 21 not included in house district 21B.

b. House district 21B consists of all of Lincoln, Pipestone, and Rock Counties, that portion of Lyon County consisting of Coon Creek Township, the city of Florence, Island Lake Township,

Nordland Township, and Shelburne Township, and those portions of Murray and Nobles Counties contained in senate district 21.

Sec. 23. 2.253 [TWENTY-SECOND DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 22 consists of all of Cottonwood and Jackson Counties, that portion of Brown County consisting of Albin Township, Bashaw Township, the city of Comfrey, Mulligan Township, and Stately Township, that portion of Lyon County consisting of the city of Balaton, Custer Township, the city of Garvin, Monroe Township, Rock Lake Township, and the city of Tracy, that portion of Martin County consisting of Cedar Township, the city of Ceylon, the city of Dunnell, Elm Creek Township, Fox Lake Township, Galena Township, Jay Township, Lake Belt Township, Lake Fremont Township, Manyaska Township, the city of Ormsby, the city of Sherburn, the city of Trimont, and the city of Welcome, that portion of Murray County not included in senate district 21, that portion of Nobles County not included in senate district 21, that portion of Redwood County consisting of the city of Lamberton, Lamberton Township, North Hero Township, the city of Revere, Springdale Township, and the city of Walnut Grove, and that portion of Watonwan County consisting of Adrian Township, the city of Butterfield, Butterfield Township, the city of Darfur, Long Lake Township, Nelson Township, the city of Odin, Odin Township, the city of Ormsby, and St. James Township.

Subd. 2. HOUSE DISTRICTS. Senate district 22 is divided into two house districts as follows:

a. House district 22A consists of that portion of Cottonwood County consisting of Ann Township, Rose Hill Township, Southbrook Township, the city of Westbrook, and Westbrook Township, that portion of Jackson County consisting of Alba Township, Ewington Township, and LaCrosse Township, that portion of Lyon County included in senate district 22, that portion of Murray County included in senate district 22, that portion of Nobles County included in senate district 22, and that portion of Redwood County consisting of North Hero Township, the city of Revere, Springdale Township, and the city of Walnut Grove.

b. House district 22B consists of that portion of senate district 22 not included in house district 22A.

Sec. 24. 2.263 [TWENTY-THIRD DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 23 consists of that portion of Blue Earth County consisting of Butternut Valley Township, Cambria Township, and Judson Township, that portion of Brown County consisting of Burnstown Township, the city of Cobden, Cottonwood Township, Eden Township, the city of Evan, the city of Hanska, Home Township, Lake Hanska Township, Leavenworth Township, Linden Township, Milford Township, the city of New Ulm, North Star Township, Prairieville Township, Sigel Township, the city of Sleepy Eye, the city of Springfield, and Stark Township, that portion of McLeod County consisting of the city of Brownton, the city of Glencoe, Glencoe Township, Penn Township, Round Grove Township, and

Sumter Township, that portion of Nicollet County not included in senate district 24, that portion of Redwood County not included in senate district 21 or 22, and all of Sibley County except for Faxon Township.

Subd. 2. HOUSE DISTRICTS. Senate district 23 is divided into two house districts as follows:

a. House district 23A consists of that portion of Brown County consisting of Burnstown Township, the city of Cobden, Eden Township, the city of Evan, Home Township, Milford Township, the city of New Ulm, North Star Township, Prairieville Township, the city of Sleepy Eye, and the city of Springfield, and that portion of Redwood County included in senate district 23.

b. House district 23B consists of that portion of senate district 23 not included in house district 23A.

Sec. 25. 2.273 [TWENTY-FOURTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 24 consists of that portion of Blue Earth County consisting of Lime Township, the city of Mankato, Mankato Township, **the city of North Mankato,** the city of Skyline, and South Bend Township, that portion of Le Sueur County consisting of the city of Cleveland, Cleveland Township, the city of Kasota, Kasota Township, the city of Le Sueur, Ottawa Township, and Washington Township, that portion of Nicollet County consisting of Belgrade Township, the city of Mankato, the city of North Mankato, Oshawa Township, the city of St. Peter, and Traverse Township.

Subd. 2. HOUSE DISTRICTS. Senate district 24 is divided into two house districts as follows:

a. House district 24A consists of that portion of Nicollet County consisting of the city of Mankato, and that portion of Blue Earth County consisting of **that portion of** the city of Mankato **south of U.S. Highway 14, less those portions of the city of Mankato surrounded by Mankato Township, plus those portions of Mankato Township surrounded by the city of Mankato,** the city of Skyline, and South Bend Township.

b. House district 24B consists of that portion of senate district 24 not included in house district 24A.

Sec. 26. 2.283 [TWENTY-FIFTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 25 consists of all of Rice County, that portion of Dakota County consisting of the city of Northfield, that portion of Scott County consisting of the city of New Prague, that portion of Le Sueur County not included in senate district 24 or 35, **and that portion of Waseca County consisting of the city of Elysian.**

Subd. 2. HOUSE DISTRICTS. Senate district 25 is divided into two house districts as follows:

a. House district 25A consists of those portions of Dakota and Scott Counties included in senate district 25, that portion of Le Sueur County consisting of the city of Heidelberg, Lanesburgh

Township, the city of Le Center, Lexington Township, the city of Montgomery, Montgomery Township, and the city of New Prague, and that portion of Rice County consisting of Bridgewater Township, the city of Dundas, Forest Township, the city of Lonsdale, the city of Northfield, Webster Township, and Wheatland Township.

b. House district 25B consists of that portion of senate district 25 not included in house district 25A.

Sec. 27. 2.293 [TWENTY-SIXTH DISTRICT.]

Subdivision 1.SENATE DISTRICT. Senate district 26 consists of all of Faribault County, that portion of Blue Earth County not included in senate district 23 or 24, that portion of Martin County not included in senate district 22, that portion of Waseca County not included in senate district 25 or 28, and that portion of Watonwan County not included in senate district 22.

Subd. 2. HOUSE DISTRICTS. Senate district 26 is divided into two house districts as follows:

a. House district 26A consists of that portion of senate district 26 not included in house district 26B.

b. House district 26B consists of all of Faribault County, that portion of Blue Earth County consisting of Beauford Township, Danville Township, Decoria Township, the city of Eagle Lake, the city of Good Thunder, Jamestown Township, Le Ray Township, Lyra Township,

McPherson Township, the city of Madison Lake, the city of Mapleton, Mapleton Township, Medo Township, the city of Pemberton, the city of St. Clair, and Sterling Township, and that portion of Waseca County consisting of Alton Township, Byron Township, Freedom Township, the city of Janesville, Janesville Township, the city of New Richland, New Richland Township, Vivian Township, the city of Waldorf, and Wilton Township.

Sec. 28. 2.303 [TWENTY-SEVENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 27 consists of all of Freeborn County, and that portion of Mower County not included in senate district 31.

Subd. 2. HOUSE DISTRICTS. Senate district 27 is divided into two house districts as follows:

a. House district 27A consists of all of Freeborn County.

b. House district 27B consists of that portion of senate district 27 not included in house district 27A.

Sec. 29. 2.313 [TWENTY-EIGHTH DISTRICT.]

Subd. 1. SENATE DISTRICT. Senate district 28 consists of all of Steele County, all of Dodge County except Vernon Township, that portion of Goodhue County consisting of Cherry Grove Township, Holden Township, Kenyon Township, the city of Kenyon, Roscoe Township, Wanamingo Township, and the city of

Wanamingo, that portion of Olmsted County consisting of the city of Byron and Kalmar Township, and that portion of Waseca County consisting of Blooming Grove Township, Iosco Township, Otisco Township, St. Mary Township, the city of Waseca, and Woodville Township.

Subd. 2 HOUSE DISTRICTS. Senate district 28 is divided into two house districts as follows:

a. House district 28A consists of that portion of Steele County consisting of Clinton Falls Township, Deerfield Township, Meriden Township, Owatonna Township, and the city of Owatonna, and that portion of Waseca County consisting of Blooming Grove Township, Iosco Township, St. Mary Township, the city of Waseca, and Woodville Township.

b. House district 28B consists of that portion of senate district 28 not included in house district 28A.

Sec. 30. 2.323 [TWENTY-NINTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 29 consists of all of Wabasha County, that portion of Dakota County consisting of the city of Hastings, **the portion of Marshan Township surrounded by the city of Hastings,** and Ravenna Township, and that portion of Goodhue County not included in senate district 28 or 37.

Subd. 2. HOUSE DISTRICTS. Senate district 29 is divided into two house districts as follows:

a. House district 29A consists of that portion of

Dakota County consisting of the city of Hastings, the portion of Marshan Township surrounded by the city of Hastings, and Ravenna Township, and that portion of Goodhue County consisting of the city of Red Wing, and Welch Township.

b. House district 29A consists of that portion of senate district 29 not included in house district 29A.

Sec. 31. 2.333 [THIRTIETH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 30 includes that portion of Olmstead County consisting of Cascade Township, Marion Township, Rochester Township, and the city of Rochester lying within a line described as follows: commencing at the intersection of Country Club Road Northwest with the Rochester Township boundary and the boundary of the city of Rochester, easterly along Country Club Road Northwest to County Road 122, southerly along County Road 122 to Historic Drive Southwest, southeasterly along Historic Drive Southwest to County Road 1228 southerly along County Road 122 to Salem Road Southwest, southeasterly and northeasterly along Salem Road Southwest to 17th Avenue Southwest, southerly along 17th Avenue Southwest to 16th Street Southwest, easterly along 16th Street Southwest to 11th Avenue Southeast, southerly along 11th Avenue Southeast to Pinewood Road Southeast, easterly along Pinewood Road Southeast to the eastern boundary of the city of Rochester, northerly and easterly along the boundary of the

city of Rochester to the intersection of the boundary of the city of Rochester and Marion Street, southeasterly along Marion Street to the boundary of the city of Rochester, southeasterly, northerly, easterly, northerly, and westerly along the boundary of the city of Rochester to the intersection of the boundary of the city of Rochester and Sunrise Avenue Southeast, northerly along Sunrise Avenue Southeast to Rose Drive Southeast, northeasterly along Rose Drive Southeast to Harbor Drive Southeast, southeasterly, easterly, and northerly along Harbor Drive Southeast to the boundary of the city of Rochester, easterly along the boundary of the city of Rochester and Eastwood Road Southeast to 40th Avenue Southeast, northerly along 40th Avenue Southeast to the boundary of the city of Rochester, easterly, northerly, westerly, northerly, westerly, southerly, westerly, northerly, westerly, northerly along the boundary of the city of Rochester to the intersection of west River Road, northerly along West River Road to the boundary of the city of Rochester, northerly and westerly along the boundary of the city of Rochester to 55th Street Northwest, westerly along 55th Street Northwest to the boundary of the city of Rochester, northerly, westerly, southerly, and westerly along the boundary of the city of Rochester to 55th Street Northwest, westerly along 55th Street Northwest to the boundary of the city of Rochester, northerly, westerly, and southerly along the boundary of the city of Rochester to 55th Avenue Northwest, westerly along 55th Avenue Northwest to the boundary of the city of Rochester, northwesterly along the boundary to

50th Avenue Northwest, southerly along 50th Avenue Northwest to Valley High Road Northwest, easterly along Valley High Road Northwest to the western boundary of the city of Rochester, southeasterly, westerly, and southerly to 19th Street Northwest, westerly along 19th Street Northwest to the boundary of the city of Rochester, southerly, westerly, southerly, easterly, and southerly along the boundary to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 30 is divided into two house districts as follows:

a. House district 30A consists of that portion of senate district 30 not included in house district 30B.

b. House district 30B consists of that portion of senate district 30, south and east of a line described as follows: commencing at the intersection of County Road 122 and Country Club Road Northwest, easterly along Country Club Road Northwest to 2nd Street Southwest, easterly along 2nd Street Southwest to the boundary of the city of Rochester, northerly, easterly, and southerly along the boundary of the city of Rochester to 2nd Street Southwest, easterly to the extension of 20th Avenue Southwest, northerly along the extension of 20th Avenue Southwest and 20th Avenue Southwest to the boundary of the city of Rochester, then easterly, southerly, and easterly along the boundary of the city of

Rochester to 2nd Street Northwest, easterly along 2nd Street Northwest to 10th Avenue Northwest, northerly along 10th Avenue Northwest and its extension to U.S. Highway 52, northerly along U.S. Highway 52 to 7th Street Northwest, easterly along 7th Street Northwest to 1st Avenue Northeast, northerly along 1st Avenue Northeast to West Silver Lake Road, northwesterly along West Silver Lake Road to North Broadway Avenue, northeasterly along North Broadway Avenue to 14th Street Northeast, southeasterly along 14th Street Northeast to 3rd Avenue Northeast, northerly along 3rd Avenue Northeast to North Broadway Avenue, northeasterly along North Broadway Avenue to Northern Heights Drive Northeast, southeasterly along Northern Heights Drive Northeast to 13th Avenue Northeast, northerly along 13th Avenue Northeast and its extension to the northern boundary of Cascade Township within senate district 30, easterly along the northern boundary of Cascade Township to the eastern boundary of senate district 30.

Sec. 32. 2.343 [THIRTY-FIRST DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 31 consists of that portion of Dodge County consisting of Vernon Township, that portion of Fillmore County not included in senate district 32, that portion of Mower County consisting of Bennington Township, Clayton Township, Frankford Township, the city of Grand Meadow, Grand Meadow Township, the city of Le Roy, Le Roy Township, Lodi Township, Pleasant Valley

Township, the city of Racine, Racine Township, the city of Sargeant, Sargeant Township, and the city of Taopi, that portion of Olmsted County not included in senate district 28 or 30, and that portion of Winona County consisting of the city of St. Charles, St. Charles Township, and Saratoga Township.

Subd. 2. HOUSE DISTRICTS. Senate district 31 is divided into two house districts as follows:

a. House district 31A consists of that portion of senate district 31 not included in house district 31B.

b. House district 31B consists of those portions of Fillmore, Mower, and Winona Counties in senate district 31, and that portion of Olmsted County consisting of the city of Chatfield, the city of Dover, Dover Township, Elmira Township, the city of Eyota, Eyota Township, Orion Township, Quincy Township, and Viola Township.

Sec. 33. 2.353 [THIRTY-SECOND DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 32 consists of all of Houston County, that portion of Fillmore County consisting of Norway Township, the city of Peterson, the city of Rushford, and the city of Rushford Village, and that portion of Winona County not included in senate district 31.

Subd. 2. HOUSE DISTRICTS. Senate district 32 is divided into two house districts as follows:

a. House district 32A consists of that portion of

Winona County consisting of the city of Elba, Elba Township, the city of Goodview, the city of Minneiska City, the city of Minnesota City, Mount Vernon Township, the city of Rollingstone, Rollingstone Township, Whitewater Township, the city of Winona, and Winona Township.

b. House district 32B consists of that portion of senate district 32 not included in house district 32A.

Sec. 34. 2.363 [THIRTY-THIRD DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 33 consists of that portion of Hennepin County consisting of Rogers, Corcoran, Hassan, Dayton, and Maple Grove, that portion of the city of Champlin not included in senate district 48, and that portion of the city of Plymouth lying east and north of the line described as follows: commencing at the intersection of the northern boundary of the city of Plymouth and Interstate Highway 494, southerly along Interstate Highway 494 to County Road 47 easterly along County Road 47 to Pineview Lane North, southerly along Pineview Lane North to the Soo Line railroad tracks, easterly along the Soo Line railroad tracks to Larch Lane North, southerly along Larch Lane North to Rockford Road, easterly along Rockford Road to Zachary Lane North, southerly along Zachary Lane North to 36th Avenue North, easterly along 36th Avenue North to the eastern boundary of the city of Plymouth, and that portion of Wright County consisting of the city of Dayton.

Subd. 2.. HOUSE DISTRICTS. Senate district 33 is divided into two house districts as follows:

a. House district 33A consists of that portion of senate district 33 not included in house district 33B.

b. House district 33B consists of that portion of the city of Plymouth in senate district 33 and that portion of the city of Maple Grove lying south and east of a line described as follows: commencing at the intersection of the eastern boundary of the city of **Maple Grove** with 101st Avenue North, westerly along 101st Avenue North to Zachary Lane, southerly along Zachary Lane to **the NSP power line south of** 97th Avenue North, **westerly** along **the NSP power line** to Xenium Lane, southerly along Xenium Lane to County Road 30, westerly along County Road 30 to Interstate Highway 494, southerly along Interstate Highway 494 to 85th Avenue North, westerly along 85th Avenue North to Fish Lake, southerly along the western shore of Fish Lake to Fernbrook Lane, southerly along Fernbrook Lane to Timbercrest Drive, easterly along Timbercrest Drive to Zinnia, northerly along Zinnia to 73rd Avenue North, easterly along 73rd Avenue North to Interstate Highway 494, southerly along Interstate Highway 494 to the southern boundary of the city of Maple Grove.

Sec. 35. 2.373 [THIRTY-FOURTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 34 consists of that portion of Hennepin County not included in any other senate district, and that portion of Wright County consisting of the city of Delano, Franklin

Township, **the city of Hanover,** the city of Rockford, and Rockford Township.

Subd. 2. HOUSE DISTRICTS. Senate district 34 is divided into two house districts as follows:

a. House district 34A consists of **the portion of Wright County included in senate district 34 and** that portion of Hennepin County consisting of the city of Hanover, the city of Greenfield, the city of Independence, the city of Minnetrista, the city of Mound, **the city of Rockford,** the city of Spring Park, and the city of St. Bonifacius.

b. House district 34B consists of that portion of senate district 34 not included in house district 34A.

Sec. 36. 2.383 [THIRTY-FIFTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 35 consists of that portion of Carver County not included in senate district 20 or 43, that portion of Le Sueur County consisting of Derrynane Township, Sharon Township, and Tyrone Township, that portion of Scott County not included in senate district **25,** 37, or 41, and that portion of Sibley County consisting of Faxon Township.

Subd. 2. HOUSE DISTRICTS. Senate district 35 is divided into two house districts as follows:

a. House district 35A consists of that portion of senate district 35 not included in house district

35B.

b. House District 35B consists of that portion of Scott County consisting of Jackson Township, the city of Jordan, Louisville Township, the city of Prior Lake Sandcreek Township, the city of Shakopee, and Spring Lake Township.

Sec. 37. 2.393 [THIRTY-SIXTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 36 consists of that portion of Dakota County consisting of that portion of the city of Burnsville lying south of a line described as follows: commencing at the intersection of the western boundary of Dakota County and County Road 42, easterly along County Road 42 to Burnsville Parkway, northeasterly along Burnsville Parkway to West 136th Street, easterly along West 136th Street to County Road 5, southerly along County Road 5 to West 138th Street, southeasterly along West 138th Street to 140th Street, easterly along 140th Street to McAndrews Road, easterly along McAndrews Road to Nicollet Avenue, northerly along Nicollet Avenue to State Highway 13, northeasterly along State Highway 13 to Cliff Road, easterly along Cliff Road to the eastern boundary of the city of Burnsville, that portion of the city of Apple Valley lying south of a line described as follows: commencing at the intersection of the northern boundary of the city of Apple Valley with State Highway 77, southerly and then easterly along State Highway 77 to Johnny Cake Ridge Road, northerly along Johnny Cake Ridge Road to the extension of Eveleth Path, easterly and northeasterly along Eveleth Path and its extension to 126th Street West, easterly and southeasterly along 126th Street West and Diamond Path to the eastern

boundary of the city of Apple Valley, and that portion of the city of Lakeville north and east of a line described as follows: commencing at the intersection of the northern boundary of the city of Lakeville and Flagstaff Avenue, southerly along Flagstaff Avenue to Dodd Boulevard, northeasterly along Dodd Boulevard to the northern boundary of the city of Lakeville.

Subd. 2. HOUSE DISTRICTS. Senate district 36 is divided into two house districts as follows:

a. House district 36A consists of those portions of the cities of Apple Valley and Lakeville contained in senate
district 36.

b. House district 36B consists of that portion of senate district 36 not included in house district 36A.

Sec. 38. 2.403 [THIRTY-SEVENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 37 consists of that portion of Scott County consisting of Credit River Township, Cedar Lake Township, New Market Township, the city of New Market, and the city of Elko, that portion of Dakota County not included in senate district 25, 29, 36, 38, 39, **or 41,** and that portion of Goodhue County consisting of Cannon Falls Township, Leon Township, Stanton Township, and Warsaw Township, and the cities of Cannon Falls and Dennison.

Subd. 2. HOUSE DISTRICTS. Senate district 37 is divided into two house districts as follows:

a. House district 37A consists of that portion of house district 37 not included in house district 37B.

b. House district 37B consists of that portion of senate district 37 consisting of that portion of Scott County located in senate district 37 and that portion of Dakota County consisting of that portion of the city of Lakeville included in senate district 37 and that portion of the city of Farmington lying north of a line described as follows: commencing at the intersection of the eastern boundary of the city of Farmington **and the north branch of the Vermillion River, southwesterly along the north branch of the Vermillion River** to Akin Road, northwesterly along Akin Road to 195th Street West, westerly along 195th Street West to Flagstaff Avenue, southerly along Flagstaff Avenue to 200th Street West, westerly along 200th Street West to the western boundary of the city of Farmington.

Sec. 39. 2.413 [THIRTY-EIGHTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 38 consists of that portion of Dakota County consisting of the cities of Eagan, Lilydale, and Mendota, that portion of the city of Apple Valley not included in senate district 36, that portion of the city of Burnsville north and east of a line described as follows: commencing at the intersection of the northern boundary of Dakota County and Interstate Highway 35W, southerly along Interstate Highway 35W to the Chicago Northwestern Transportation Company railroad tracks, easterly along the Chicago and Northwestern Transportation Company

railroad tracks to Cliff Road, southerly and easterly along Cliff Road to Nicollet Avenue, southerly along Nicollet Avenue to State Highway 13, northeasterly along State Highway 13 to Cliff Road, easterly along Cliff Road to the eastern boundary of the city of Burnsville, and that portion of the city of Mendota Heights lying west and south of a line described as follows: commencing at the intersection of the northern boundary of the city of Mendota Heights and State Highway 13, southwesterly along State Highway 13 to Wachtler Avenue, southerly along Wachtler Avenue to Wentworth Avenue, easterly along Wentworth Avenue to Dodd Road, southwesterly along Dodd Road to Marie Avenue, easterly along Marie Avenue to the eastern boundary of the city of Mendota Heights.

Subd. 2. HOUSE DISTRICTS. Senate district 38 is divided into two house districts as follows:

a. House district 38A consists of that portion of senate district 38 not included in house district 38B.

b. House district 38B consists of that portion of the city of Apple Valley in senate district 38, that portion of the city of Burnsville east of a line described as follows: Commencing at the intersection of State Highway 13 and the eastern boundary of the city of Burnsville, southwesterly along State Highway 13 to Cliff Road, easterly along Cliff Road to the eastern boundary of the city of Burnsville, and that portion of the city of Eagan lying south of a line described as follows: commencing at the intersection of the western boundary of the city of Eagan and Diffley Road,

easterly along Diffley Road to Lexington Avenue, northerly along Lexington Avenue to Yankee Doodle Road, easterly along Yankee Doodle Road to **Dodd Road**, southeasterly along **Dodd Road** to the eastern boundary of the city of Eagan.

Sec. 40. 2.423 [THIRTY-NINTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 39 consists of that portion of Dakota County consisting of the cities of Inver Grove Heights, South St. Paul, Sunfish Lake, West St. Paul, and that portion of the city of Mendota Heights not included in senate district 38.

Subd. 2. HOUSE DISTRICTS. Senate district 39 is divided into two house districts as follows:

a. House district 39A consists of that portion of senate district 39 consisting of the cities of West St. Paul and Sunfish Lake, that portion of the city of Mendota Heights included in senate district 39, that portion of the city of South St. Paul lying north and west of a line described as follows: commencing at the intersection of the southern boundary of the city of South St. Paul and 18th Avenue South, northerly along 18th Avenue South to Southview Boulevard, easterly along Southview Boulevard to 17th Avenue South, northerly along 17th Avenue South to 4th Street North, easterly along 4th Street North to 14th Avenue North, northerly along 14th Avenue North to Wentworth Avenue, easterly along Wentworth Avenue and its extension to the Mississippi River, and that portion of the city of Inver Grove Heights lying west and north of a

line described as follows: commencing at the intersection of the northern boundary of the city of Inver Grove Heights and Babcock Trail, southerly along Babcock Trail to Upper 55th Street, westerly along Upper 55th Street to the western boundary of the city of Inver Grove Heights.

b. House district 39B consists of that portion of Senate district 39 not included in house district 39A.

Sec. 41. 2.433 [FORTIETH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 40 consists of **that portion of Hennepin County consisting of** that portion of the city of Bloomington not included in senate district 41, and that portion of the city of Richfield not included in senate district 63.

Subd. 2. HOUSE DISTRICTS. Senate district 40 is divided into two house districts as follows:

a. House district 40A consists of that portion of senate district 40 lying north and east of a line described as follows: commencing at the intersection of the northern boundary of the city of Bloomington and Interstate Highway 35W, southerly along Interstate Highway 35W to the Soo Line railroad tracks, northeasterly along the Soo Line railroad tracks to **Lyndale Avenue South, southerly along Lyndale Avenue South to** 95th Street, easterly along 95th Street to **Clinton Avenue South, southerly along**

Clinton Avenue South to 96th Street, easterly along 96th Street to Chicago Avenue South, northerly along Chicago Avenue South to 94th Street, easterly along 94th Street to **Riverview Avenue, southerly along Riverview Avenue to** Old Shakopee Road, northeasterly along Old Shakopee Road to Old Cedar Avenue, southeasterly along Old Cedar Avenue to the Minnesota River.

b. House district 40B consists of that portion of senate district 40 not included in house district 40A.

Sec. 42. 2.443 [FORTY-FIRST DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 41 consists of that portion of Dakota County consisting of that portion of the city of Burnsville not included in senate district 36 or 38, that portion of Scott County consisting of the city of Savage **and the area lying within a line described as follows: commencing at the intersection of County Road 18 and the eastern boundary of the city of Shakopee, southwesterly along County Road 18 to State Highway 101, southeasterly along State Highway 101 to the eastern boundary of Shakopee**, and that portion of Hennepin County consisting of that portion of the city of Bloomington lying west of a line described as follows: commencing at the intersection of the southern boundary of the city of Bloomington with **an** extension of **Irwin** Avenue, north on **this** extension **and Irwin** Avenue to Overlook Drive, west on Overlook Drive to Normandale Boulevard, north on Normandale Boulevard to Old

Shakopee Road, easterly along Old Shakopee Road to Hell Avenue, southerly along Hell Avenue to 108th Street, easterly along 108th Street to Xerxes Avenue South, northerly along Xerxes Avenue South to Old Shakopee Road, northeasterly along Old Shakopee Road, to Nine Mile Creek, northerly and westerly along Nine Mile Creek to West 90th Street, southwesterly along West 90th Street to Poplar Bridge Road, easterly along Poplar Bridge Road to Kingsdale Drive, southwesterly along Kingsdale Drive to Poplar Bridge Road, southwesterly along Poplar Bridge Road to Normandale Boulevard, northerly along Normandale Boulevard to the northern boundary of the city of Bloomington, and that portion of the city of Eden Prairie not included in senate district 42 or 43.

Subd. 2 HOUSE DISTRICTS. Senate district 41 is divided into two house districts as follows:

a. House district 41A consists of that portion of senate district 41 lying north of a line described as follows: commencing with the intersection of Purgatory Creek and the western boundary of senate district 41, southeasterly along Purgatory Creek to Pioneer Trail, <u>southeasterly</u> along Pioneer Trail to the Bloomington Ferry Road, southerly along the Bloomington Ferry Road to Old Shakopee Road, easterly along Old Shakopee Road to the eastern boundary of senate district 41.

b. House district 41B consists of that portion of senate district 41 not included in house district 41A.

Sec. 43. 2.453 [FORTY-SECOND DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 42 consists of that portion of Hennepin County consisting of the city of Edina, the city of Chanhassen, and that portion of the city of Eden Prairie not included in senate district 43 and lying west and north of a line described as follows: commencing at the intersection of the southern boundary of Hennepin County with the NSP power line that extends beyond the end of Concord Drive, northerly along the NSP power line to Riverview Road, westerly along Riverview Road to Mooer Lane, northerly along Mooer Lane to Silverwood Drive, easterly along Silverwood Drive to Homeward Hills Road, northerly along Homeward Hills Road to Anderson Lakes Parkway, easterly along Anderson Lakes Parkway to Hidden Oaks Drive, northeasterly along Hidden Oaks Drive and its extension to the southern shore of Anderson Lake, southerly southeasterly and northeasterly along the southern shore of Anderson Lake to the eastern boundary of the city of Eden Prairie.

Subd. 2. HOUSE DISTRICTS. Senate district 42 is divided into two house districts as follows:

a. House district 42A consists of that portion of the city of Edina lying north and east of a line described as follows: commencing at the intersection of the western boundary of he city of Edina with State Highway 62, easterly along State Highway 62 to State Highway 100, southerly along State Highway 100 to West 66th Street, easterly along West 66th Street to West

Shore Drive, southeasterly along West Shore Drive to Laguna Drive, easterly along Laguna Drive to Wooddale Avenue, southerly along Wooddale Avenue to Dunberry Lane, easterly along Dunberry Lake to Cornelia Drive, southerly along Cornelia Drive to West 70th Street, easterly along West 70th Street to France Avenue, southerly along France Avenue to the southern boundary of the city of Edina.

b. House district 42B consists of that portion of senate district 42 not contained in house district 42A.

Sec. 44. 2.463 [FORTY-THIRD DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 43 consists of that portion of Carver County consisting of the cities of Chanhassen and Victoria, and that portion of Hennepin County consisting of the city of Deephaven, that portion of the city of Eden Prairie **lying north and west of a line described as follows: commencing at the intersection of the western boundary of the city of Eden Prairie and the Soo Line railroad tracks, northeasterly along the Soo Line railroad tracks to Valley View Road, easterly along Valley View Road to Baker Road, northerly along Baker Road to the northern boundary of the city of Eden Prairie,** the city of Excelsior, the city of Greenwood, that portion of the city of Minnetonka lying south and west of a line described as follows: commencing at the intersection of the southern boundary of the city of Woodland and State Highway 101, southerly along State Highway 101 to Minnetonka Boulevard, easterly along Minnetonka Boulevard to Williston Road, southerly along

Williston Road to Lake Street, easterly along Lake Street to Maple Lane, southerly along Maple Lane to State Highway 7, easterly along State Highway 7 to Interstate Highway 494, southerly along Interstate Highway 494 to the southern boundary of the city of Minnetonka, the city of Minnetonka Beach, that portion of the city of Orono lying south of the northern shore of Lake Minnetonka along Crystal Bay, Smith Bay, and Browns Bay, the city of Shorewood, the city of Tonka Bay, and the city of Woodland.

Subd. 2. HOUSE DISTRICTS. Senate district 43 is divided into two house districts as follows:

a. House district 43A consists of that portion of senate district 43 lying in Carver County, and that portion of senate district 43 lying in Hennepin County consisting of the cities of Eden Prairie, Minnetonka Beach, Orono, and Tonka Bay, and that portion of the city of Shorewood lying west of a line described as follows: commencing at the intersection of the southern boundary of Hennepin County and First Avenue, northerly along First Avenue to Smithtown Road, westerly along Smithtown Road to Eureka Road, northerly along Eureka Road to Birch Bluff Road, easterly along Birch Bluff Road to the western boundary of the city of Tonka Bay.

b. House district 43B consists of that portion of senate district 43 not included in house district 43A.

Sec. 45. 2.473 [FORTY-FOURTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 44 consists of that portion of Hennepin County consisting of the cities of Hopkins and St. Louis Park, and that portion of the city of Minnetonka lying south and east of a line described as follows: commencing at the intersection of Interstate Highway 494 and the southern boundary of the city of Minnetonka, northerly along Interstate Highway 494 to Excelsior Boulevard, northeasterly and easterly along Excelsior Boulevard to the eastern boundary of the city of Minnetonka.

Subd. 2. HOUSE DISTRICTS. Senate district 44 is divided into two house districts as follows:

a. House district 44B consists of that portion of senate district 44 in the city of St. Louis Park lying east of a line described as follows: commencing at the intersection of the northern boundary of the city of St. Louis Park and Flag Avenue, southerly along Flag Avenue to Westmoreland Lane, easterly along Westmoreland Lane and Franklin Avenue and its extension to Louisiana Avenue, southerly along Louisiana Avenue to the Burlington Northern railroad tracks, southwesterly along the Burlington Northern railroad tracks to Virginia Avenue, southerly along Virginia Avenue to West 28th Street, easterly along West 28th Street to Texas Avenue, southerly along Texas Avenue to the southern boundary of the city of St. Louis Park.

b. House district 44A consists of that portion of senate district 44 not included in house district 44B.

Sec. 46. 2.483 [FORTY-FIFTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 45 consists of that portion of Hennepin County consisting of the city of Wayzata, that portion of the city of Golden Valley not included in senate district 46, the city of Medicine Lake, that portion of the city of Minnetonka not included in senate district 43 or 44, and that portion of the city of Plymouth lying south and east of a line described as follows: commencing at the intersection of the western boundary of the city of Plymouth with County Road 6, easterly along county Road 6 to Interstate Highway 494, northerly along Interstate Highway 494 to Rockford Road, easterly along Rockford Road to Zachary Lane, southerly along Zachary Lane to 36th Avenue North, easterly along 36th Avenue North to the eastern boundary of the city of Plymouth.

Subd. 2. HOUSE DISTRICTS. Senate district 45 is divided into two house districts as follows:

a. House district 45A consists of that portion of senate district 45 consisting of the city of Wayzata, that portion of the city of Minnetonka located in senate district 45 and that portion of the city of Plymouth located in senate district 45 lying west of Interstate Highway 494.

b. House district 45B consists of that portion of senate district 45 not included in house district 45A.

Sec. 47. 2.493 [FORTY-SIXTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district

46 consists of that portion of Hennepin County consisting of the cities of Crystal, New Hope, and Robbinsdale, that portion of the city of Golden Valley lying north and **west** of a line described as follows: commencing at the intersection of the western border of the city of Golden Valley and the extension of Earl Street, easterly along **the extension and** Earl Street to Independence Avenue North, northerly along Independence Avenue North to Duluth Street, easterly along Duluth Street to Winnetka Avenue, and northerly along Winnetka Avenue to the northern boundary of the city of Golden Valley, and that portion of the city of Brooklyn Center lying south of a line described as follows: commencing at the intersection of the western boundary of the city of Brooklyn Center and 58th Avenue North, easterly along 58th Avenue North to Shingle Creek, southerly along Shingle Creek to the southern boundary of the city of Brooklyn Center.

Subd. 2. HOUSE DISTRICTS. Senate district 46 is divided into two house districts as follows:

a. House district 46A consists of that portion of senate district 46 lying west of a line described as follows: commencing at the intersection of the northern boundary of the city of Crystal with **County Road 81**, southeasterly along **County Road 81** to the northern boundary of the city of Robbinsdale, westerly, southerly, and westerly along the northern and western boundaries of the city of Robbinsdale to 42nd Avenue North, westerly along 42nd Avenue North to the Soo Line Railroad Company tracks, southerly along the Soo Line Railroad Company tracks to the western boundary of the city of Crystal, westerly and southerly along the western boundary of the

city of Crystal to the southern boundary of senate district 46.

b. House district 46B consists of that portion of senate district 46 not included in house district 46A.

Sec. 48. 2.503 [FORTY-SEVENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 47 consists of that portion of Hennepin County consisting of that portion of the city of Brooklyn Center not included in senate district 46 and that portion of the city of Brooklyn Park lying south and west of a line described as follows: commencing at the intersection of the western boundary of the city of Brooklyn Park and the southern boundary of the city of Osseo, easterly along the southern boundary of the city of Osseo to the Burlington Northern railroad tracks, southeasterly along the Burlington Northern railroad tracks to 85th Avenue North, easterly along 85th Avenue North to Xerxes Avenue, southerly along Xerxes Avenue to Pearson Parkway, southeasterly along Pearson Parkway to Newton Avenue, southerly along Newton Avenue to the southern boundary of the city of Brooklyn Park.

Subd. 2. HOUSE DISTRICTS. Senate district 47 is divided into two house districts as follows:

a. House district 47A consists of that portion of senate district 47 lying west of a line described as follows: commencing at the intersection of the northern boundary of senate district 47 and Noble Avenue, southerly along Noble Avenue to 83rd Avenue North, easterly along 83rd Avenue North

to 82nd Avenue North, southerly and westerly along 82nd Avenue North to June Avenue, southerly along June Avenue **and Brookdale Drive** to 75th Avenue North, westerly along 75th Avenue North to Lee Avenue, southerly and westerly along Lee Avenue to Major Avenue, southerly and westerly along Major Avenue to Noble Avenue, southerly along Noble Avenue to the southern boundary of senate district 47.

b. House district 47B consists of that portion of senate district 47 not located in house district 47A.

Sec. 49. 2.513 [FORTY-EIGHTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 48 consists of that portion of Anoka County consisting of that, portion of the city of Coon Rapids not included in senate district 49, the city of Spring Lake Park, that portion of the city of Blaine south and west of a line described as follows: commencing at the intersection of the western boundary of the city of Blaine with the right-of-way of State Highway 610, southeasterly along the right-of-way of State Highway 610 to Central Avenue Northeast, southerly along Central Avenue Northeast to 89th Avenue, easterly along 89th Avenue Northeast and its extension to Hastings Street Northeast, southerly along Hastings Street Northeast to the southern boundary of the city of Blaine, and that portion of the city of Fridley lying north of a line described as follows: commencing at the intersection of the Mississippi River with Rice Creek, easterly along Rice Creek to East River Road, southeasterly along East River Road to Mississippi Street, easterly along Mississippi Street to Seventh

Street Northeast, southerly along Seventh Street Northeast to 61st Avenue **Northeast**, easterly along 61st Avenue East **Northeast** to West Moore Lake Drive, southeasterly along West Moore Lake Drive to State Highway 65, southerly along State Highway 65 to an extension of Lynde Drive, easterly along the extension and Lynde Drive to Regis Street, northerly along Regis Street to Hathaway Lane, easterly along Hathaway **and its extension** Lane to Matterhorn Drive, northerly along Matterhorn Drive to Gardena Avenue, easterly along Gardena Avenue to the eastern boundary of the city of Fridley, that portion of Ramsey County consisting of the city of Spring Lake Park, and that portion of Hennepin County consisting of that portion of the city of Brooklyn Park not included in senate district 47, the city of Osseo, and that portion of the city of Champlin lying east of a line described as follows: commencing at the intersection of the southern boundary of the city of Champlin with **U.S.** Highway 169, northerly along **U.S.** Highway 169 to Hayden Lake Road, westerly along Hayden Lake Road to **the north-south NSP power line west of** Vera Street, northerly along **the north-south NSP power line** to French Lake Road, northeasterly along French Lake Road to Dayton Road, southeasterly along Dayton Road **and its extension** to **U.S.** Highway 169, northerly along **U.S.** Highway 169 to the Mississippi River.

Subd. 2. HOUSE DISTRICTS. Senate district 48 is divided into two house districts as follows:

a. House district 48A consists of that portion of senate district 48 not included in house district 48B.

b. House district 48B consists of that portion of senate district 48 located in Anoka and Ramsey Counties.

Sec. 50. 2.523 [FORTY-NINTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 49 consists of that portion of Anoka County consisting of the city of Anoka and that portion of the city of Coon Rapids lying north of a line described as follows: commencing at the intersection of the Mississippi River with Coon Creek, northerly along Coon Creek to the Burlington Northern railroad tracks, southeasterly along the Burlington Northern railroad tracks to Coon Rapids Boulevard **Extension**, easterly along Coon Rapids Boulevard **Extension** to the north-south Burlington Northern railroad tracks, northerly along the north-south Burlington Northern railroad tracks to Egret Boulevard, easterly along Egret Boulevard to **U.S.** Highway 10, southeasterly along **U.S.** Highway 10 to **Pleasure Creek, and northerly along Pleasure Creek** to the eastern boundary of the city of Coon Rapids.

Subd. 2. HOUSE DISTRICTS. Senate district 49 is divided into two house districts as follows:

a. House district 49A consists of that portion of senate district 49 lying north and west of a line described as follows: commencing at the intersection of the Mississippi River with the southern boundary of the campus of Anoka Ramsey State Community College, easterly along the southern boundary of the campus of Anoka Ramsey State Community College to Mississippi

Boulevard, northerly along Mississippi Boulevard to Coon Rapids Boulevard, northwesterly along Coon Rapids Boulevard to Round Lake Boulevard, northerly along Round Lake Boulevard to 119th Avenue Northwest, easterly along 119th Avenue Northwest **to** an, extension of **Lily** Street **Northwest,** northerly along the extension of **Lily** Street **Northwest** to the Burlington Northern railroad tracks, northwesterly along the Burlington Northern railroad tracks to Main Street, easterly along Main Street to **U.S.** Highway 10, southeasterly along **U.S.** Highway 10 to Hanson Boulevard, northeasterly along Hanson Boulevard to North Dale Boulevard, easterly along North Dale Boulevard to Sand Creek, northeasterly and southeasterly along Sand Creek to the eastern boundary of the city of Coon Rapids.

b. House district 49B consists of that portion of senate district 49 not located in house district 49A.

Sec. 51. 2.533 [FIFTIETH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 50 consists of that portion of Anoka County north of a line described as follows: commencing at the intersection of the Mississippi River with the northwestern boundary of the city of Anoka, northerly and easterly along the northern boundary of the city of Anoka to the northern boundary of the city of Coon Rapids, easterly along the northern boundary of the city of Coon Rapids to University Avenue Northeast, southerly along University

Avenue Northeast to Main Street, easterly along Main Street to Jefferson Street Northeast, northerly along Jefferson Street Northeast to 128th Avenue Northeast, easterly along 128th Avenue Northeast to Monroe Street Northeast, southerly along Monroe Street Southeast to 128th Avenue Northeast, easterly along 128th Avenue Northeast to Van Buren Street Northeast, southerly along Van Buren Street Northeast to 127th Lane Northeast, easterly along 127th Lane Northeast to Polk Street Northeast, northerly along Polk Street Northeast to 128th Avenue Northeast, easterly along 128th Avenue Northeast to Taylor Street Northeast, southerly along Taylor Street Northeast to 127th Avenue Northeast, easterly along 127th Avenue Northeast to Buchanan Street Northeast, northerly along Buchanan Street Northeast to 127th Lane Northeast, easterly along 127th Lane Northeast to Central Avenue service Road, northerly along Central Avenue service Road to 129th Avenue Northeast, easterly along 129th Avenue Northeast to Central Avenue Northeast, northerly along Central Avenue Northeast to the northern boundary of the city of Blaine, easterly along the northern boundary of the city of Blaine and the northern boundary of the city of Lino Lakes to the eastern boundary of Anoka County.

Subd. 2 HOUSE DISTRICTS. Senate district 50 is divided into two house districts as follows:

a. House district 50A consists of that portion of senate district 50 lying north of a line described as follows: commencing at the intersection of the western boundary of Anoka County with the northern boundary of the city of Ramsey,

easterly along the northern boundary of the city of **Ramsey** and the northern boundar**ies** of the citi**es** of **Andover and** Ham Lake to Central Avenue Northeast, southerly a long Central Avenue Northeast to the northern boundary of the city of Blaine, easterly along the northern boundary of the city of Blaine and the northern boundary of the city of Lino Lakes to the eastern boundary of Anoka County.

b. House district 50B consists of that portion of senate district 50 not included in house district 50A.

Sec. 52. 2.543 [FIFTY-FIRST DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 51 consists of that portion of Anoka County consisting of all of the cities of Centerville, Lexington, and Lino Lakes, and that portion of the city of Blaine not included in senate district 48, 50, or 53, and that portion of Washington County north of a line described as follows: commencing at the intersection of the western boundary of the city of Hugo with the southern boundary of the city of Hugo, easterly along the southern boundary of the city of Hugo to Goodview Avenue, northerly along Goodview Avenue to 137th Street North, easterly along 137th Street North to Homestead Avenue North, northerly along Homestead Avenue North to 140th Street North, easterly along 140th Street North to the eastern boundary of the city of Hugo, southerly along the eastern boundary of the city of Hugo to the southern boundary of May Township, easterly along the southern boundary of May Township to the eastern boundary of Washington County.

Subd. 2. HOUSE DISTRICTS. Senate district 51 is divided into two house districts as follows:

a. House district 51A consists of the city of Lexington and that portion of the city of Blaine included in senate district 51.

b. House district 51B consists of that portion of senate district 51 not included in house district 51A.

Sec. 53. 2.553 [FIFTY-SECOND DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 52 consists of that portion of Anoka County consisting of the cities of Columbia Heights and Hilltop and that portion, of the city of Fridley not included in senate district 48, and that portion of Ramsey County consisting of the **cities of Blaine, Mounds View, and New Brighton**.

Subd. 2. HOUSE DISTRICTS. Senate district 52 is divided into two house districts as follows:

a. House district 52A consists of that portion of senate district 52 not included in house district 52B.

b. House district 52B consists of **that portion of Ramsey County consisting of** the **cities** of **Blaine and** Mounds View and that portion of the city of New Brighton located **north and east of** a line described as follows: commencing at the intersection of 16th Street Northwest with the

western boundary of the city of New Brighton, easterly along **16th Street Northwest** to Silver Lake Road, southerly along Silver Lake Road to **the southern boundary of the city of New Brighton**.

Sec. 54. 2.563 [FIFTY-THIRD DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 53 consists of that portion of Ramsey County consisting of the cities of Arden Hills, Shoreview, North Oaks, Gem Lake, and Vadnais Heights; that portion of White Bear Township bordered by boundaries of Anoka County and the cities of Shoreview and North Oaks; those portions of the city of White Bear Lake and White Bear Township lying westerly of a line described as follows: commencing at the intersect ion of Otter Lake Road and the northern boundary of the city of Gem Lake, northerly along Otter **Lake** Road to County Road H-2, easterly along County Road H-2 to Bald Eagle Boulevard, south**easterly** along Bald Eagle Boulevard **and an extension of Bald Eagle Boulevard** to the shoreline of Bald Eagle Lake, northerly, easterly, and northerly along the shoreline of Bald Eagle Lake to the northern boundary of Ramsey County; and **that portion** of the **city** of Little Canada not included in senate **district** 54; **that portion of the city of Maplewood lying within a line described as follows: commencing at the intersection of the northern boundary of the city of Maplewood and White Bear Avenue, southerly along White Bear Avenue to County Road C, westerly along County Road C to Keller Parkway, northerly along Keller Parkway to the western boundary of the city of Maplewood, northerly and easterly along the**

boundary of the city of Maplewood to the point of origin; and that portion of Anoka County consisting of the city of Circle Pines and that portion of the city of Blaine lying **east and south of** a line described as follows: commencing at the intersection of Interstate Highway 35W and the northern boundary of Ramsey County, northerly along Interstate Highway 35W to the extension of Flowerfield Road, easterly along the extension and Flowerfield Road to Lexington Avenue, and northerly, easterly, southerly, easterly, southerly, and westerly along the boundaries of the city of Blaine to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 53 is divided into two house districts as follows:

a. House district 53A consists of that portion of senate district 53 not included in house district 53B.

b. House district 53B consists of that portion of senate district 53 consisting of the cities of North Oaks, Gem Lake, and Vadnais Heights; those portions of the **cities of Little Canada and Maplewood,** White Bear Township, and the city of White Bear Lake described in subdivision 1; and that portion of the city of Shoreview lying **east** of Hodgson Road and that portion lying within a line described as follows: commencing at the intersection of Hodgson Road and Snail Lake Boulevard, westerly, southerly, and westerly along Snail Lake Boulevard to County Road F, westerly a long County Road F to Lexington Avenue and the western boundary of the city,

southerly, easterly, and northerly along the boundaries of the city of Shoreview to Hodgson Road, and northwesterly along Hodgson Road to the point of origin.

Sec. 55. 2.573 [FIFTY-FOURTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 54 consists of that portion of Ramsey County consisting of the cities of Roseville, St. Anthony, Lauderdale, and Falcon Heights, that portion of the city of Maplewood lying within a line described as follows: commencing at the intersection of Rice Street and Larpenteur Avenue, easterly along Larpenteur Avenue to DeSoto **Street** and a railroad right-of-way, northeasterly along the railroad right-of-way and an extension of it to Parkway Drive, northeasterly along Parkway Drive to Frost Avenue, easterly along Frost Avenue to **Chamber** Street, northerly along **Chamber** Street **and its extension** to **an extension of** the railroad right-of-way, northeasterly along **the extension and** the railroad right-of-way to Hazelwood Street, northerly along Hazelwood Street to State Highway 36, easterly along State Highway 36 to White Bear Avenue, northerly along White Bear Avenue to County Road C, westerly along County Road C **to Keller Parkway, northerly along Keller Parkway** to the western boundary of the city of Maplewood, **southerly and westerly** along the western boundary of the city of Maplewood to the point of origin; that portion of the city of Little Canada lying within a line described as follows: commencing at the intersection of the northern boundary of the city of Little Canada and Rice Street, southerly, easterly, and northerly along the boundary of the city of Little Canada to **the**

intersection of Keller Parkway and the southern boundary of senate district 53, westerly and southerly along Keller Parkway to Little Canada Road, westerly along Little Canada Road to Interstate Highway 35E, northerly along Interstate Highway 35E to Interstate Highway 694, northwesterly along Interstate Highway 694 to the northern boundary of the city of Little Canada, and westerly along the northern boundary of the city of Little Canada to the point of origin, and that portion of Hennepin County consisting of the city of St. Anthony.

Subd. 2. HOUSE DISTRICTS. Senate district 54 is divided into two house districts as follows:

a. House district 54A consists of that portion of senate district 54 not included in house district 54B.

b. House district 54B consists of those portions of the cities of Little Canada and Maplewood contained in senate district 54, and that portion of the city of Roseville lying within a line described as follows: commencing at the intersection of Snelling Avenue with the northern boundary of the city, southerly along Snelling Avenue to County Road C, easterly along County Road C to Hamline Avenue, southerly along Hamline Avenue to **State** Highway 36, easterly along **State** Highway 36 to Lexington Avenue, southerly along Lexington Avenue to County Road B, easterly along County Road B to the eastern boundary of the city of Roseville, and northerly and **westerly** along the boundaries of the city of Roseville to the point of origin.

Sec. 56. 2.583 [FIFTY-FIFTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 55 consists of that portion of Ramsey County consisting of the city of North St. Paul; that portion of the city of White Bear Lake not included in senate district 53; that portion of White Bear Township not included in senate district 53; that portion of **the city of** Maplewood lying within a line described as follows: commencing at the intersection of Century Avenue and Interstate Highway 694, westerly along Interstate Highway 694 to White Bear Avenue, southerly along White Bear Avenue to **State** Highway 36, westerly along **State** Highway 36 to Hazelwood Street, southerly along Hazelwood Street to a railroad right of way, westerly along the railroad right of way to **an extension of** Chamber Street, southerly along **the extension and** Chamber Street to Frost Avenue, westerly and southwesterly along Frost Avenue to the extension of said railroad right of way, southwesterly along the extension and the railroad right of way to Larpenteur Avenue, easterly along Larpenteur Avenue to Century Avenue, northerly along Century Avenue to Holloway Avenue and the southern boundary o,f the city of North St. Paul, westerly, northerly, and easterly along the boundaries of the city of North St. Paul to Century Avenue, and northerly along Century Avenue to the point of origin, and, that part of the city of St. Paul lying within a line described as follows: commencing at the intersection of Larpenteur Avenue and Interstate Highway 35E, southerly along Interstate Highway 35E to Arlington Avenue, easterly along Arlington Avenue to Wheelock Parkway, easterly along Wheelock Parkway to Johnson Parkway, southerly along Johnson Parkway to Maryland Avenue, easterly along Maryland Avenue to Kennard Street, northerly along

Kennard Street to Sherwood Avenue, easterly along Sherwood Avenue to White Bear Avenue, northerly along White Bear Avenue to Larpenteur Avenue, and westerly along Larpenteur Avenue to the point of origin, and, that portion of Washington County lying within a line described as follows: the intersection of the southerly shoreline of White Bear Lake with the boundary between Ramsey and Washington counties, southeasterly along the shoreline, its extension, **and the eastern boundary of the city of Birchwood Village to County Road 298 easterly** along **County Road 29** to **State Highway 244**, northeasterly along **State Highway 244** to **County Road 12, northeasterly and easterly along County Road 12 to** Ideal Avenue North, southerly along Ideal Avenue North to the boundaries of the city of Pine Springs, **westerly**, southerly, **westerly**, southerly, **westerly**, and southerly along the boundaries of the city of Pine Springs to Interstate Highway 694, westerly to the eastern boundary of Washington County, and northerly along the boundary to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 55 is divided into two house districts as follows:

a. House district 55A consists of that portion of senate district 55 not included in house district 55B.

b. House district 55B consists of that portion of Ramsey County consisting of the city of North St. Paul and those portions of the cities of Maplewood and St. Paul included in senate district 55.

Sec. 57. 2.593 [FIFTY-SIXTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 56 consists of that portion of Washington County not included in senate district 51, 55, or 57.

Subd. 2. HOUSE DISTRICTS. Senate district 56 is divided into two house districts as follows:

a. House district 56A consists of that portion of senate district 56 north of a line described as follows: commencing at the intersection of the western boundary of Washington County with the southern boundary of the city of Mahtomedi easterly and northeasterly along the southern boundary of the city of Mahtomedi to the western boundary of Grant Township, southerly along the western boundary of Grant Township to the southern boundary of Grant Township, easterly along the southern boundary of Grant Township to the western boundary of Baytown Township southerly along the western boundary of Baytown Township to the southern boundary of Baytown Township, easterly along the southern boundary of Baytown Township to the eastern boundary of senate district 56.

b. House district 56B consists of that portion of senate district 56 not included in house district 56A.

Sec. 58. 2.603 [FIFTY-SEVENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 57 consists of that portion of Ramsey County consisting of that portion of the city of Maplewood lying south of Larpenteur Avenue, and that portion of Washington

County south and west of a line described as follows: commencing at the intersection of the western boundary of Washington County and the Chicago and Northwestern Transportation Company railroad tracks in the city of Oakdale, easterly along the Chicago and Northwestern Transportation Company railroad tracks to Interstate Highway 694, southerly along Interstate Highway 694 to Valley Creek Road, easterly along Valley Creek Road to Queens Drive, southerly along Queens Drive to Afton Road, southeasterly along Afton Road to Tower Drive, northerly along Tower Drive to Valley Creek Road, easterly along Valley Creek Road to Pioneer Drive, southerly along Pioneer Drive to Bailey Road, easterly along Bailey Road to Woodbury Drive, southerly along Woodbury Drive to the southern boundary of the city of Woodbury, easterly along the southern boundary of Woodbury to the eastern boundary of the city of Cottage Grove southerly and westerly along the eastern and southern boundaries of Cottage Grove to the Mississippi River.

Subd. 2. HOUSE DISTRICTS. Senate district 57 is divided into two house districts as follows:

a. House district 57A consists **of that portion of Ramsey County consisting of the portion of the city of Maplewood included in senate district 57 and that portion of Washington County consisting** of the city of Landfall and those portions of the cities of Oakdale and Woodbury included in senate district 57.

b. House district 57B consists of that portion of senate district 57 not included in house district 57A.

Sec. 59. 2.613 [FIFTY-EIGHTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 58 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and Glenwood Avenue, easterly along Glenwood Avenue to the Burlington Northern railroad tracks, southeasterly and northeasterly along the Burlington Northern railroad tracks to Interstate Highway 94, southerly along Interstate Highway 94 to Interstate Highway 394, easterly along Interstate Highway 394 to Hawthorne Avenue, northeasterly along Hawthorne Avenue to 9th Street North, southerly along 9th Street North to Hennepin Avenue, northeasterly along Hennepin Avenue to Washington Avenue North, northwesterly along Washington Avenue North to Plymouth Avenue North, easterly and northeasterly along Plymouth Avenue North to the Mississippi River, northwesterly along the Mississippi River to the northern boundary of the city of Minneapolis, westerly along the northern boundary of the city of Minneapolis to the western boundary of the city of Minneapolis, southerly along the western boundary of the city of Minneapolis to the point of origin.

Subd. 2. HOUSE DISTRICTS: Senate district 58 is divided into two house districts as follows:

a. House district 58A consists of that portion of senate district 58 lying north of a line described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and 21st Avenue North, easterly along 21st Avenue

North to Upton Avenue North, northerly along Upton Avenue North to 24th Avenue North, easterly on 24th Avenue North to Sheridan Avenue North, northerly along Sheridan Avenue North to 26th Avenue North, easterly along 26th Avenue North to Penn Avenue North, northerly along Penn Avenue North to 29th Avenue North, easterly along 29th Avenue North to Humboldt Avenue North, northerly along Humboldt Avenue North to 30th Avenue North, easterly along 30th Avenue North to Dupont Avenue North, northerly along Dupont Avenue North to Lowry Avenue North, easterly along Lowry Avenue North to the eastern boundary of senate district 58.

b. House district 58B consists of that portion of senate district 58 not included in house district 58A.

Sec. 60. 2.623 [FIFTY-NINTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 59 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of the Mississippi River and the northern boundary of the city of Minneapolis, easterly along the northern boundary of the city of Minneapolis to the eastern boundary of the city of Minneapolis, southerly along the eastern boundary of the city of Minneapolis to the Mississippi River, northwesterly along the Mississippi River to State Highway 122, southwesterly along State Highway 122 to Interstate Highway 35W, southwesterly along Interstate Highway 35W to 7th Street South, northwesterly along 7th Street South to

5th Avenue South, southwesterly along 5th Avenue South to 9th Street South, northwesterly a long 9th Street South to the eastern boundary of senate district 58, northerly along the eastern boundary of senate district 58 to the point of origin.

Subd. 2 HOUSE DISTRICTS. Senate district 59 is divided into two house districts as follows:

a. House district 59A consists of that portion of senate district 59 lying north of a line described as follows: commencing at the intersection of the Mississippi River and 8th Avenue Northeast, northeasterly along 8th Avenue Northeast to the east bank of the Mississippi River, southeasterly along the east bank of the Mississippi River to **Hennepin Avenue, northeasterly along Hennepin Avenue to Main Street Northeast, northwesterly along Main Street Northeast to** 3rd Avenue Northeast, northeasterly along 3rd Avenue Northeast to 5th Street Northeast, northwesterly along 5th Street Northeast to Broadway Street Northeast, easterly along Broadway Street Northeast to Central Avenue Northeast, northerly along Central Avenue Northeast to the Burlington Northern railroad tracks, southeasterly along the Burlington Northern railroad tracks to Fillmore Street Northeast, northerly along Fillmore Street Northeast to 14th Avenue Northeast, easterly along 14th Avenue Northeast to Johnson Street Northeast, southerly along Johnson Street Northeast to Interstate Highway 35W, northeasterly and easterly along Interstate Highway 35W to the eastern boundary of the city

of Minneapolis.

b. House district 59B consists of that portion of senate district 59 not included in house district 59A.

Sec. 61. 2.633 [SIXTIETH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 60 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and West 50th Street, easterly along West 50th Street to Penn Avenue South, northerly along Penn Avenue South to Lake Harriet Parkway, easterly and northeasterly along Lake Harriet Parkway to West 46th Street, easterly along West 46th Street to Nicollet Avenue South, northerly along Nicollet Avenue South to West 36th Street, westerly along West 36th Street to Blaisdell Avenue South, northerly along Blaisdell Avenue South to West 34th Street, westerly along West 34th Street to Grand Avenue South, northerly along Grand Avenue South to West 32nd Street, westerly along West 32nd Street to Harriet Avenue South, northerly along Harriet Avenue South to West 31st Street, westerly along West 31st Street to Garfield Avenue South, northerly along Garfield Avenue South to West Lake Street, westerly along West Lake Street to Lyndale Avenue South, northerly along Lyndale Avenue South to Interstate Highway 94, easterly along Interstate Highway 94 and Interstate Highway 35W to the southern boundary of senate district 59, northwesterly along the southern boundary of senate district 59 to the southern boundary of senate district 58, westerly along

the southern boundary of senate district 58 to the western boundary of the city of Minneapolis, southerly along the western boundary of the city of Minneapolis to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 60 is divided into two house districts as follows:

a. House district 60A consists of that portion of senate district 60 lying north of a line described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and West Lake Street, easterly along West Lake Street to the eastern boundary of senate district 60.

b. House district 60B consists of that portion of senate district 60 not included in house district 60A.

Sec. 62. 2.643 [SIXTY-FIRST DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 61 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of Lyndale Avenue South and Interstate Highway 94, easterly and northeasterly along Interstate Highway 94 and Interstate Highway 35W to **State** Highway **122**, easterly along **State** Highway **122** to Cedar Avenue South, southerly along Cedar Avenue South**, Cedar Avenue South southeasterly along Minnehaha Avenue, and southwesterly and southerly along Cedar Avenue South** to Hiawatha Avenue, southerly along Hiawatha Avenue to East 28th

Street, westerly along East 28th Street to 21st Avenue South, southerly along 21st Avenue South to East 32nd Street, westerly along East 32nd Street to 19th Avenue South, southerly along 19th Avenue South to East 34th Street, westerly along East 34th Street to Bloomington Avenue South, southerly along Bloomington Avenue South to East 36th Street, westerly along East 36th Street to 10th Avenue South, southerly along 10th Avenue South to East 38th Street, westerly along East 38th Street to Elliot Avenue South, southerly along Elliot Avenue South to East 44th Street, westerly along East 44th Street to Chicago Avenue South, southerly along Chicago Avenue South to East 50th Street, westerly along East 50th Street to Park Avenue South, southerly along Park Avenue South to East Minnehaha Parkway, westerly along East Minnehaha Parkway to East 50th Street, westerly along East 50th Street to Stevens Avenue South, northerly along Stevens Avenue South to East 46th Street, westerly along East 46th Street to the eastern boundary of senate district 60, northernly along the eastern boundary of senate district 60, to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 61 is divided into two house districts as follows:

a. House district 61A consists of that portion of senate district 61 lying north of a line described as follows: commencing at the intersection of the western boundary of senate district 61 and West 25th Street, easterly along West 25th Street to Pillsbury Avenue South, southerly along Pillsbury Avenue South to West 26th Street, easterly along West 26th Street to 1st Avenue South, southerly along 1st Avenue South to West Lake Street,

easterly along West Lake Street to the eastern boundary of senate district 61.

b. House district 61B consists of that portion of senate district 61 not included in house district 61A.

Sec. 63. 2.653 [SIXTY-SECOND DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 62 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of **State** Highway **122** and Cedar Avenue South, northeasterly along **State** Highway **122** to the Mississippi River, southeasterly and southerly along the Mississippi River to extension of East 54th Street, westerly along the extension of East 54th Street and East 54th Street to 40th Avenue South, southerly along 40th Avenue South to East 55th Street, easterly along East 55th Street to 41st Avenue South, southerly along 41st Avenue South to East 56th Street, westerly along East 56th Street to 28th Avenue South, southerly along 28th Avenue South to East 58th Street, westerly along East 58th Street to **Longfellow Avenue South, northerly along Longfellow Avenue South to East 57th Street, westerly along East 57th Street and its extension to Cedar Avenue South, southerly along Cedar Avenue South to East 58th Street, westerly along East 58th Street** to 14th Avenue South, northerly along 14th Avenue South to East 54th Street, easterly along East 54th Street to Bloomington Avenue South, northerly along Bloomington Avenue South to East 48th Street, westerly along East 48th Street to the eastern boundary of senate district 61, northerly along

the eastern boundary of senate district 61 to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 62 is divided into two house districts as follows:

a. House district 62A consists of that portion of senate district 62 lying north of a line described as follows: commencing at the intersection of the western boundary of senate district 62 and East 36th Street, easterly along East 36th Street to Cedar Avenue South, southerly along Cedar Avenue South to East 38th Street, easterly along East 38th Street to Hiawatha Avenue, southeasterly along Hiawatha Avenue to East 42nd Street, easterly along East 42nd Street and its extension to the Mississippi River.

b. House district 62B consists of that portion of senate district 62 not included in house district 62A.

Sec. 64. 2.663 [SIXTY-THIRD DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 63 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis not contained in senate district 58, 59, 60, 61, **or 62**; that portion of the city of Richfield lying north of a line described as follows: commencing at the intersection of the western boundary of the city of Richfield and West 67th Street, easterly along West 67th Street **and its extensions** to Interstate Highway 35W, southerly along Interstate Highway 35W to West 73rd Street, easterly along West 73rd Street to 2nd Avenue South, southerly along 2nd

Avenue South to the southern boundary of the city of Richfield, easterly along the southern boundary of the city of Richfield to the eastern boundary of the city of Richfield; the unorganized territory of Fort Snelling; and the Minneapolis Saint Paul International Airport.

Subd. 2. HOUSE DISTRICTS. Senate district 63 is divided into two house districts as follows:

a. House district 63A consists of that portion of senate district 63 north of a line described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and State Highway 62, easterly along State Highway 62 to Lyndale Avenue South, northerly along Lyndale Avenue South to West 58th Street, easterly along West 58th Street to Interstate Highway 35W, southerly along Interstate Highway 35W to East 60th Street, easterly along East 60th Street to Portland Avenue South, northerly along Portland Avenue South to East 57th Street, southeasterly along East 57th Street to Chicago Avenue South, southerly along Chicago Avenue South to East 58th Street, easterly along East 58th Street to the western boundary of senate district 62.

b. House district 63B consists of that portion of senate district 63 not included in house district 63A.

Sec. 65. 2.673 [SIXTY-FOURTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 64 consists of that portion of Ramsey County consisting

of that portion of the city of St. Paul located within an area described as follows: commencing at the intersection of the western boundary of the city of St. Paul and the southern boundary of senate district 66, easterly along the southern boundary of senate district 66 to Hamline Avenue, southerly along Hamline Avenue to Ayd Mill Road southeasterly along Ayd Mill Road to Summit Avenue, easterly along Summit Avenue to Griggs Street, northerly along Griggs Street to Portland Avenue, easterly along Portland Avenue to Dale Street, southerly along Dale Street to Summit Avenue, easterly and northeasterly along Summit Avenue to Western Avenue, southerly along Western Avenue and its extension to Ramsey Street, easterly along Ramsey Street and Grand Avenue to Interstate Highway 35E, southwesterly along Interstate Highway 35E to St. Clair Avenue, westerly along St. Clair Avenue to an extension of Victoria Avenue, southerly along the extension and Victoria Avenue to Jefferson Avenue, westerly along Jefferson Avenue to Interstate Highway 35E, southerly along Interstate Highway 35E to the southern boundary of the city of St. Paul, southwesterly, northerly, westerly, and northwesterly along the southern boundary of the city of St. Paul to the western boundary of the city of St. Paul, northerly along the western boundary of the city of St. Paul to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 64 is divided into two house districts as follows:

a. House district 64A consists of that portion of senate district 64 lying north of a line described as follows: commencing at the intersection of the western boundary of the city of St. Paul and the

extension of St. Clair Avenue, easterly along the extension of St. Clair Avenue and St. Clair Avenue to Snelling Avenue, southerly along Snelling Avenue to Jefferson Avenue, easterly along Jefferson Avenue to Lexington Parkway, northerly along Lexington Parkway to the Soo Line railroad tracks, easterly along the Soo Line railroad tracks to the eastern boundary of senate district 64.

b. House district 64B consists of that portion of senate district 64 not included in house district 64A.

Sec., 66. 2.683 [SIXTY-FIFTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 65 consists of that portion of Ramsey County consisting of that portion of the city of St. Paul located within an area described as follows: commencing at the intersection-of the southern boundary of the city of St. Paul and the eastern boundary of senate district 64, northerly, easterly, northerly, and northeasterly along the eastern boundary of senate district 64 to Grand Avenue, westerly along Grand Avenue and Ramsey Street to the extension of Western Avenue, northerly along the extension of Western Avenue and Western Avenue to Summit Avenue, southwesterly and westerly along Summit Avenue to Dale Street, northerly along Dale Street to Portland Avenue, westerly along Portland Avenue to Griggs Street, southerly along Griggs Street to Summit Avenue, westerly along Summit Avenue to Ayd Mill Road, northwesterly along Ayd Mill Road to Hamline Avenue, northerly along Hamline Avenue to Charles Avenue, easterly along Charles Avenue to

Lexington Parkway, northerly along Lexington Parkway to Minnehaha Avenue, easterly along Minnehaha Avenue to Dale Street, northerly along Dale Street to the Burlington Northern railroad tracks, easterly along the Burlington Northern railroad tracks past Interstate Highway 35E to the north-south Burlington Northern railroad tracks, southeasterly along the north-south Burlington Northern railroad tracks and their extension to the Mississippi River, southerly along the Mississippi River to the southern boundary of the city of St. Paul, westerly and southwesterly along the southern boundary of the city of St. Paul to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 65 is divided into two house districts as follows:

a. House district 65A consists of that portion of senate district 65 lying west of a line described as follows: commencing at the intersection of the northern boundary of senate district 65 and Rice Street, southerly along Rice Street to John Ireland Boulevard, southwesterly along John Ireland Boulevard to Summit Avenue, southwesterly along Summit Avenue to the southern boundary of senate district 65.

b. House district 65B consists of that portion of senate district 65 not included in house district 65A.

Sec. 67. 2.693 [SIXTY-SIXTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 66 consists of that portion of Ramsey County consisting of that portion of the city of St. Paul located within an

area described as follows: commencing at the intersection of the western boundary of the city St. Paul with the northern boundary of the city of St. Paul, easterly along the northern boundary of the city of St. Paul to Interstate Highway 35E, southerly along Interstate Highway 35E to Arlington Avenue, easterly and southeasterly along Arlington Avenue and Wheelock Parkway **to Johnson Parkway, southeasterly along Johnson Parkway** to Maryland Avenue, westerly along Maryland Avenue to Edgerton Street, southerly along Edgerton Street to Cook Avenue, westerly along Cook Avenue to DeSoto Street, southerly along DeSoto Street to Case Avenue, westerly along Case Avenue and its extension to Interstate Highway 35E, southerly along Interstate Highway 35E to the **east-west** Burlington Northern railroad tracks, westerly along the **east-west** Burlington Northern railroad tracks to Dale Street, southerly along Dale Street to Minnehaha Avenue, westerly along Minnehaha Avenue to Lexington Parkway, southerly along Lexington Parkway to Charles Avenue, westerly along Charles Avenue to Hamline Avenue, southerly along Hamlin Avenue to Interstate Highway 94, westerly along Interstate Highway 94 to the western- boundary of the city of St. Paul, northerly along the western boundary of the city of St. Paul to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 66 is divided into two house districts as follows:

a. House district 66A consists of that portion of senate **district** 66 lying east of a line described as follows: commencing at the intersection of the northern boundary of the city of St. Paul with

Grotto Street, southerly along Grotto Street to Arlington Avenue, westerly along Arlington Avenue to Lexington Parkway, southerly along Lexington Parkway to East Como Lake Drive, southerly along East Como Lake Drive to Victoria Street, southerly along Victoria Street and Como Avenue to the Burlington Northern railroad tracks, westerly along the Burlington Northern railroad tracks to Chatsworth Street, southerly along Chatsworth Street to Front Avenue, easterly along Front Avenue to Western Avenue, southerly along Western Avenue to the southern boundary of senate district 66.

b. House district 66B consists of that portion of senate district 66 not included in house district 66A

Sec. 68. 2.703 [SIXTY-SEVENTH DISTRICT.]

Subdivision 1. SENATE DISTRICT. Senate district 67 consists of that portion of Ramsey County consisting of that portion of the city of St. Paul located within an area described as follows: commencing at the intersection of the southern boundary of the city of St. Paul with the eastern boundary of senate district 65, northerly and northwesterly along the eastern boundary of senate district 65 to the northern boundary of senate district 65, westerly along the northern boundary of senate district 65 to the eastern boundary of senate district 66, northerly and easterly along the eastern boundary of senate district 66 to Maryland Avenue, easterly along Maryland Avenue to Kennard Street, northerly along Kennard Street to Sherwood Avenue, easterly along Sherwood Avenue to White Bear Avenue, northerly along White Bear Avenue to the northern boundary of the city

of St. Paul, easterly along the northern boundary of the city of St. Paul to the eastern boundary of the city of St. Paul, southerly along the eastern boundary of the city of St. Paul to the southern boundary of the city of St. Paul, westerly and northwesterly along the southern boundary of the city of St. Paul to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 67 is divided into two house districts as follows:

a. House district 67A consists of that portion of senate district 67 lying north of a line described as follows: commencing at the intersection of the eastern boundary of senate district 67 with Old Hudson Road, westerly along Old Hudson Road to Ruth Street, northerly along Ruth Street to East Minnehaha Avenue, westerly along Minnehaha Avenue to Frank Street, northerly along Frank Street to East Seventh Street, westerly along East Seventh Street to Early Street, northerly along Earl Street to the Burlington Northern railroad tracks, westerly along the Burlington Northern railroad tracks to the western boundary of senate district 67.

b. House district 67B consists of that portion of senate district 67 not included in house district 67A.

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

C-8-91-985
NOTICE

Patricia Cotlow, Phillip Krass
Sharon LaComb, James Stein, and
Theodore Suss, individually and
on behalf of all Citizens of
Minnesota similarly situated,

Plaintiffs,

and

John Walker, Howard Miller,
Don Sudor, and Nkajlo Vangh,

Plaintiff-Intervenors,

vs.

Joan Growe, Secretary of State
of Minnesota; and Patrick H.
O'Connor, Hennepin County Auditor,
individually and on behalf of all
Minnesota county chief election officers,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives
and the Seventy-seventh Minnesota
State Senate,

Defendant-Intervenors.

On November 22, 1991 the panel released a preliminary draft of its redistricting plan. Ongoing review of the panel's plan has revealed ten errors and omissions requiring the following corrections:

1. Page 6, line 15 should read: "of that portion of St. Louis County ...."

2. Page 22, line 1 should read: "House districts 29B ...."

3. Page 26, lines 11-12 should read: "... to Interstate Highway 94, southerly along Interstate Highway 94 and Interstate Highway 494 to 85th Avenue North ..."

4. Page 31, lines 6-7 should read: "Senate district 4 consists of that portion of the city of Bloomington ...."

5. Page 34, lines 17-19 should read: ".... that portion of the city of Orono lying south of the northern boundary of Spring Park and its extension to the shore of Lake Minnetonka ...."

6. Page 43, lines 22-23 should read: "... the city of Blaine lying within a line described as follows ..."

7. Page 45, lines 1-2 should read: "... northerly and westerly along Keller Parkway to Little Canada Road ..."

8. Page 45, lines 30-31 should read: "... that portion of Maplewood lying within aline ...."

9. Page 46, lines 24-25 should read: "... easterly land southerly along the shoreline ...."

10. Page 52, lines 6-7 should read: "... southerly along Cedar Avenue South to Minnehaha Avenue, southeasterly along Minnehaha Avenue to Cedar Avenue South ...."

These changes and any others that are raised by the parties and adopted by the panel will be reflected in the panel's final plan, subject to the parties' opportunity to comment on December 8, 1991.

Dated: November 27, 1991
BY THE COURT:

Honorable Harriet Lansing
Honorable Kenneth J. Maas
Honorable William E. Walker

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

C8-91-985

Patricia Cotlow, Phillip Krass
Sharon LaComb, James Stein, and
Theodore Suss, individually and
on behalf of all Citizens of
Minnesota similarly situated, Plaintiffs,
and

John Walker, Howard Miller,
Don Sudor, and Nkajlo Vangh,

Plaintiff-Intervenors,

vs.

Joan Growe, Secretary of State
of Minnesota; and Patrick H.
O'Connor, Hennepin County Auditor,
individually and on behalf of all
Minnesota county chief election
officers,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives

and the Seventy-seventh Minnesota State Senate,

Defendant-Intervenors.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER FOR JUDGMENT ON LEGISLATIVE REDISTRICTING

The Special Redistricting Panel convened hearings on July 26, August 29, September 24, October 16, November 14, and December 3, 1991. Plaintiffs were represented by Alan W. Weinblatt, Weinblatt & Davis; plaintiff-intervenors were represented by Bruce D. Willis and Mark B. Peterson, Popham, Haik, Schnobrich & Kaufman, Ltd.; defendant Joan Growe, Secretary of State, was represented by John R. Tunheim, Chief Deputy Attorney General, and Jocelyn Olson, Assistant Attorney General; defendant Patrick H. O'Connor, Hennepin County Auditor, was represented by Michael O. Freeman, Hennepin County Attorney, and Toni A. Beitz, Senior Assistant Hennepin County Attorney; and defendant-intervenors were represented by John D. French and Michael L. Cheever, Faegre & Benson, and Peter S. Wattson, Senate Counsel.

All parties were directed to file legislative redistricting plans on October 7, 1991. The panel convened hearings on October 16, November 14, and December 3, 1991 for comments on the plans.

Based on the record received from the Minnesota District Court, Fourth Judicial District; the record compiled during the course of the hearings; and the submissions of the parties; the panel makes the following

FINDINGS OF FACT

1. In January 1991, Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss initiated this action in Minnesota District Court, Fourth Judicial District. They asked the court to declare the present legislative apportionment, Minn. Stat. §§ 2.019, 2.042 through 2.702 (1990), and the present congressional apportionment, outlined in LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982), invalid under the Minnesota and United States Constitutions.

2. The plaintiffs further requested the court to retain jurisdiction during the 1991 session of the legislature to determine whether any legislatively enacted plans for redistricting satisfied the Minnesota and United States Constitutions. In the absence of the enactment of a constitutionally valid apportionment by the legislature, the plaintiffs asked this court to devise a proper legislative and congressional apportionment for the State of Minnesota.

3. On February 15, 1991, John Walker, Howard Miller, Don Sudor, and Nkajlo Vangh served notice and statement of intervention. On March 14, 1991, plaintiffs served notice of objection to the intervention.

4. On February 25, 1991, the previously named plaintiffs and defendants Joan Growe and the Hennepin County Auditor stipulated that the

court had subject matter jurisdiction; that as a result of population changes reflected in the 1990 federal census, the present legislative and congressional districts contravene the Minnesota and United States Constitutions; and that the Chief Judge of the Hennepin County District Court could request the Chief Justice of the State of Minnesota to appoint a panel of three district court or appellate judges to hear and decide this action.

5. On April 2, 1991, the Minnesota House of Representatives and the Minnesota Senate served notice of intervention as defendants and a statement of intervention. No party objected. 6. On May 18, 1991, the legislature passed Chapter 246, S.F. No. 1571, establishing a legislative redistricting plan. The bill was presented to the governor on May 24, 1991.

7. On June 4, 1991, the Minnesota Supreme Court appointed the undersigned three-judge panel to hear and decide all matters, including all pretrial and trial motions, and to reach an ultimate disposition of this case.

8. On June 20, 1991, the Minnesota Supreme Court declined original jurisdiction on the question of the validity of the enactment of a number of bills, including Chapter 246, the legislative redistricting bill. A declaratory judgment action was filed in Ramsey County District Court.

9. On July 26, 1991, the special redistricting panel conducted a pretrial status conference and, on

July 29, 1991, issued Pretrial Order No. 1 ordering (a) that John Walker, Howard Miller, Don Sudor, and Nkajlo Vangh be permitted to intervene as plaintiff-intervenors; (b) that parties submit responses to the criteria adopted by the Minnesota Legislature for legislative and congressional redistricting plans; and (c) that arrangements be made to permit the panel to view the legislature's redistricting computer system.

10. On August 2, 1991, by order of Ramsey County District Court, Chapter 246 was declared to be a validly enacted law.

11. On August 16, 1991, the special redistricting panel issued Pretrial Order No. 2 establishing certain preliminary criteria for legislative and congressional redistricting and directing oral argument on other reserved criteria.

12. After the parties' arguments on the reserved criteria, the panel issued Pretrial Order No. 3 on September 13, 1991, adopting the final criteria for congressional and legislative redistricting. The criteria for legislative redistricting are as follows:

    1. The Senate must be composed of 67 members. The House of Representatives must be composed of 134 members.

    2. Each district is entitled to elect a single member.

    3. Arepresentative district may not be divided

in the formation of a Senate district.

4. The districts must be substantially equal in population. The population of a district must not deviate from the ideal by more than two percent. Because a court-ordered reapportionment plan must conform to a higher standard of population equality than a legislative reapportionment plan, de minimis deviation from the population norm will be the goal for establishing districts. See Chapman, 420 U.S. 1, 95 S. Ct. 751; Connor, 431 U.S. 407, 97 S. Ct. 1828.

5. The districts must be composed of convenient contiguous territory structured into compact units. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district.

6. The districts must be numbered in a regular series, beginning with House district 1A in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the seven-county metropolitan area until the southeast corner has been reached; then to the seven-county metropolitan area outside the cities of Minneapolis and St. Paul; then in Minneapolis and St. Paul.

7. The districts must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority makes it

possible, the districts must increase the probability that members of the minority will be elected. Any plan adopted by the court shall comply with the applicable provisions of the Federal Voting Rights Act, 42 U.S.C. § 1971, et seq.

8. The districts will be drawn with attention to county, city and township boundaries. A county, city, or township will not be divided into more than one district except as necessary to meet equal population requirements or to form districts that are composed of convenient, contiguous and compact territory. When any county, city or township must be divided into one or more districts, it will be divided into as few districts as practicable. Reynolds v. Sims, 377 U.S. 533, 578-79, 84 S. Ct. 1362, 1390-91 (1964); Swann v. Adams, 385 U.S. 440, 444, 87 S. Ct. 569, 572 (1967).

9. The districts should attempt to preserve communities of interest when that can be done in compliance with the preceding standards. The panel may recognize a community's character as urban, suburban or rural. See Skolnick v. State Electoral Bd. of Ill., 336 F. Supp. 839 (N.D. Ill. 1971); LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982); LaComb v. Growe, 541 F. Supp. 160 (D. Minn. 1982); Maryland Citizens Comm. for Fair Congressional Redistricting, Inc. v. Tawes, 253 F. Supp. 731 (D. Md. 1966), aff'd sub. nom. Alton v. Tawes, 384

U.S. 315, 86 S. Ct. 1590 (1966). Additional communities of interest shall be considered if persuasively established and not in violation of applicable case law.

10. Past voting behavior and residency of incumbents shall not be used as criteria; however, they may be used to evaluate the fairness of plans submitted to the court.

13. Subsequently, the panel adopted an additional criterion that all submitted plans should be based on Chapter 246. Defendant-intervenors, joined by other parties, urged the panel to adopt, as a criterion, certain "curative amendments" to Chapter 246. The amendments had passed out of the special redistricting committees of both houses on August 26, 1991, after the legislature had adjourned. However, the amendments had not been passed by the full bodies of either house, nor had they been presented to the governor for his signature. The panel declined to adopt as a criterion the legislative committees' proposed corrections to Chapter 246.

14. The August 29, 1991 Pretrial Order No. 3 also ordered suspension, until further order of the panel, of the time periods within which local units of government are required to complete the redefining of the boundaries of election precincts, wards, or other local election districts pursuant to Minn. Stat. §§ 204B.135, 204B.14, 205.84, 205A.12, and

375.02 (Supp. 1991). The pretrial order designated the format for submission of redistricting plans and directed oral argument on various motions, including whether Chapter 246 violates the Minnesota or United States Constitutions or the Federal Voting Rights Act. Finally, recognizing that the time requirements for congressional redistricting are less stringent, the panel deferred submission of congressional redistricting plans.

15. Following submissions from the parties, the panel issued Pretrial Order No. 4, on October 1, 1991, which (a) denied plaintiff-intervenors' motion to stay this proceeding; (b) declared that the numerous facial infirmities in Chapter 246, including noncontiguous districts, violate Article IV, sections 2 and 3 of the Minnesota Constitution; and (c) declared that facial infirmities also violate the equality of representation requirement of the fourteenth amendment to the United States Constitution. The panel denied plaintiff's motion to enforce Chapter 246, together with its "curative amendments", as the reapportionment plan for the State of Minnesota. Because no party submitted specific allegations of Voting Rights Act violations, the panel ordered submission of any Chapter 246 violations of the Federal Voting Rights Act without waiver of jurisdictional objections by October 7, 1991.

16. On October 7, 1991, defendant-intervenors, the Minnesota Legislature, renewed its submission of Chapter 246 together with the curative amendments adopted by the Senate and House Committees on Redistricting; plaintiffs proposed adoption of the legislature's plan, with curative amendments, as the court-ordered legislative redistricting plan; defendant Secretary of State Growe supported the submission of the legislature; defendant Hennepin County Auditor supported the submission of the legislature; and plaintiff-intervenors submitted a proposed legislative redistricting plan. The panel received additional submissions from citizens groups and individual legislators, only one of which was made part of the record.

17. No violations of the Federal Voting Rights Act were asserted.

18. On October 15, 1991, defendant-intervenors submitted a written response to the plaintiff-intervenors' proposed legislative redistricting plan. On October 16, defendant Growe submitted a written response to plaintiff-intervenors' proposed legislative redistricting plan; plaintiff-intervenors submitted a written response to the legislature's redistricting plan; and defendant Hennepin County Auditor submitted a written analysis of the plaintiff-intervenors' plan. On October 17 and 18, 1991, defendant-intervenors submitted additional responses

to the plaintiff-intervenors' redistricting plan.

19. On November 4, 1991, defendant-intervenors submitted a congressional redistricting plan. The plan is based on S.F. No. 1597/H.F. No. 1728, adopted by the House of Representatives Committee on Redistricting and the Senate Committee on Redistricting on October 30 and 31, 1991, and referred to the full House and Senate for consideration in early January, 1992.

20. On November 8, 1991, the panel issued Pretrial Order No. 5 ordering final oral argument on (a) the existence and use of any legislative history of Chapter 246, including maps, and (b) the application of the rules of statutory interpretation to avoid, modify, or correct constitutional or other defects in Chapter 246. In addition, the panel ordered that all parties have computer access to each proposed plan file and written geographic description of both plans.

21. On November 14, 1991, defendant-intervenors submitted a memorandum on Chapter 246's legislative history, appending affidavits of State Representative Peter Rodosovich, State Senator Lawrence J. Pogemiller, and Craig Lindeke from the Revisor of Statutes Office. The panel has adopted the following as relevant pieces of legislative history:

a. A set of two small black and white maps, one of the state and one of the metropolitan area. These maps were distributed to each member of the House in the House chamber on May 18, 1991, before the members voted on Chapter 246. These two maps were also distributed to each member of the Senate in the Senate chambers on May 16, 1991, before the members voted on Chapter 246. In each instance, the chief authors of the bill represented that the proposed redistricting plan was depicted in the two black and white maps.

b. A second map group consisting of four large color maps depicting respectively the areas of (1) the State of Minnesota, (2) the seven-county metropolitan area, (3) the City of Minneapolis, and (4) the City of St. Paul. The maps were used in both the House and Senate committees and displayed in the House retiring room on May 17, 1991, the House chamber on May 18, 1991, the Senate retiring room on May 16, 1991, and in the Senate chamber on May 16, 1991.

c. A group of seven reports, primarily population tables. Three of the reports were distributed to members of the House on May 18, 1991, before they voted on Chapter 246. Three of the reports were distributed to all members

of the Senate on May 18, 1991, before they voted on Chapter 246. The remaining report was distributed to the members of the Senate Redistricting Committee on May 3, 1991.

CONCLUSIONS OF LAW

1. Minnesota Laws 1991, Chapter 246, violates Article IV, sections 2 and 3 of the Minnesota Constitution because, among other defects, it creates noncontiguous districts.

2. Minnesota Laws 1991, Chapter 246, violates the equality of representation requirement of the fourteenth amendment of the United States Constitution.

3. Unless a legislative plan is incorrectably invalid, a court may not simply substitute its own reapportionment preferences for those of the state legislature. See Upham v. Seamon, 456 U.S. 37, 40-42, 102 S. Ct. 1518, 1520-21 (1982). Courts are not permitted to disregard state apportionment policy or plans without solid constitutional grounds for doing so. White v. Weiser, 412 U.S. 783, 795, 93 S. Ct. 2348, 2355 (1973) (citing Whitcomb v. Chavis, 403 U.S. 124, 160, 91 S. Ct. 1858, 1878 (1971)). The court must reconcile constitutional requirements with the goals of state political policy by limiting its modifications "to those necessary to cure any constitutional or statutory defect." Upham 456 at 43, 102 S. Ct. at 1522; see also Rybicki v. State Bd. of Elections, 574 F. Supp. 1082 (N.D. Ill.

1982) (making only those corrections necessary to remove unconstitutional defects). Such deference does not extend to the curative amendments, as they have not been adopted into law. 4.Most of the constitutional and statutory defects in Minnesota Laws 1991, Chapter 246 can be cured by ascertaining and effectuating the legislative intent, see Minn. Stat. § 645.16 (Supp. 1991); and by applying canons of statutory construction, Minn. Stat. §§ 645.16-645.43 (Supp. 1991). The remaining defects require corrections and adjustments which are based on legislative policy and the court's redistricting criteria. These corrections and adjustments are made in the attached plan and explained in the accompanying annotations.

5. Minnesota Laws 1991, Chapter 246 complies with the Federal Voting Rights Act.

**BASED ON THE ENTIRE RECORD,
IT IS HEREBY ORDERED:**

1. That subject to the stay issued by the United States District Court in Emison v. Growe, No. 4-91-202 (D. Minn. Dec. 5, 1991), and in conformity with Minn. R. Civ. P. 54.02 the following reapportionment of the Minnesota Legislature shall be final and effective beginning with the 1992 primary and general elections, unless a constitutional plan is enacted by the State of Minnesota. The stay of time periods for completion of redistricting for local units of government is dissolved.

2. Subject to the stay issued by the United States District Court in Emison v. Growe, No. 4-91-202 (D. Minn. Dec. 5, 1991), all plans for congressional redistricting shall be submitted to this panel on or before January 17, 1992.

3. The panel retains jurisdiction over this matter to ensure that any bill enacted into law complies with the Minnesota and United States Constitutions and the Federal Voting Rights Act.

Dated: December 9, 1991
BY THE COURT:

/s/
Honorable Harriet Lansing

/s/
Honorable Kenneth J. Maas

/s/
Honorable William E. Walker

Memorandum

The Minnesota Constitution places the power and responsibility of redistricting with the legislature and the governor. Minn. Const., art. IV, §§ 3, 24. In the last 78 years, however, Minnesota's redistricting rule has become its exception. Only once during this time have the legislature and the governor been able to pass a redistricting plan. Consequently, courts have been compelled to assume a more legislative role to adjust for the detrimental lack of a "current expression of the state's political preferences regarding the complicated redistricting process." LaComb v. Growe, 541 F. Supp. 145, 150-51 (D. Minn. 1982).

Following the 1990 federal census, the 1991 Minnesota House and Senate were able to pass Chapter 246, S.F. No. 1571, prescribing the boundaries of Minnesota's legislative districts. This bill was subsequently determined to be validly enacted law. The United States Supreme Court has consistently declared that when a state has enacted a redistricting plan, courts may not pre-empt the legislature's redistricting responsibility or unnecessarily intrude on state policy except as necessary to correct an unconstitutional plan. See Upham v. Seamon, 456 U.S. 37, 102 S. Ct. 1518 (1982); White v. Weiser, 412 U.S. 783, 93 S. Ct. 2348 (1973).

A court's first responsibility is to determine whether any errors in an enacted plan are so pervasive as to invalidate it entirely, requiring adoption of an alternate plan. See e.g., Cook v. Luckett, 735 F.2d 912, 918 (5th Cir. 1984) (citing Upham and Weiser). If the plan is not incorrectably invalid, the court must ascertain the nature and scope of each error and modify the legislative plan to the extent necessary to correct such defects.

Upham at 41-3, 102 S. Ct. at 1521-22; Cook, 735 F.2d at 918.

Our detailed analysis of Chapter 246 reveals numerous errors in Chapter 246 as enacted. The legislature's curative amendments propose approximately 160 changes in 63 pages of text. Some of the proposed amendments clarify wording and are only refinements in language which are not necessary to discern the boundaries or contents of districts. Other proposed changes, however, point to substantive errors requiring changes to correct defects in the statute.

In addressing the needed substantive changes, some corrections were obvious, and there was no need to employ the rules of statutory construction or to refer to legislative history. In other instances, the errors could be rectified by reference to the context of the language, the geographic context of the district, or by referring to the maps or tables which form part of the legislative history. See Minn. Stat. §§ 645.16, 645.17. In the remaining instances where corrections and adjustments were required and legislative intent was not clear, we drew the boundaries by attempting to preserve surrounding constitutional boundaries and by examining the submissions of the parties and weighing these and other alternatives against our adopted criteria. In no instance have we found the problems to be so incorrectable that the basic plan had to be abandoned. Plaintiff-intervenors have urged acceptance of a substantially different plan with a lower average deviation. We recognize that the primary objective of redistricting is to achieve population equality in all state districts. Courts have, however, uniformly recognized that population deviations of ten percent or less in legislative plans do not affect the plan's constitutionality. See Connor v. Finch, 431 U.S. 407, 418, 97 S. Ct. 1828,

1835 (1977). The limited population deviations in the corrected Chapter 246 are in almost all instances well within two percent. To accept an alternative plan with slightly lower population deviations over an enacted legislative plan would require us to disregard an entire body of established redistricting case law.

Following the issuance of our Findings of Fact, Conclusions of Law and Preliminary Order for Legislative Redistricting, the federal district court in Emison v. Growe, No. 4-91-202, at 15 (D. Minn. Dec. 5, 1991), ordered a stay of "any future orders that [the Minnesota Special Redistricting Panel] may issue relating to the adoption of any state redistricting plan or congressional redistricting plan...until further order of [the district] court." All parties involved in the federal and state proceedings have been enjoined from enforcing or implementing any order of this court that proposes adoption of a reapportionment plan. The stay was purportedly issued in aid of federal jurisdiction and to avoid inhibiting the legislative process before the legislature acts.

From the outset of the litigation in this court, we have proceeded with the understanding that redistricting is essentially a legislative function, and courts should not intrude in that function unless upon proper request and until the legislature has had the opportunity to reapportion. The Minnesota Legislature has acted on state legislative redistricting. It retains the power to amend the act at any time. However, the present act has been declared a valid law; it is the constitutionality of that law that has been challenged in this court.

All of the parties in this action, except the plaintiff-intervenors, have urged this court to proceed as expeditiously as possible to review the legislature's redistricting law and to take steps necessary to ensure

that a valid legislative redistricting is in effect for February's precinct caucuses. The plaintiff-intervenors' counterparts in the federal action have repeatedly represented to the federal panel that the legislature's adjournment until 1992 "requires that a court conduct redistricting" and that "neither the federal nor the state court can properly defer to the legislature" because "the clock ticks toward the 1992 election process." See Plaintiff's Memorandum in Opposition to Motions for Federal Court to Abstain or Stay, at 2, 12 (August 9, 1991); Plaintiff's Reply Memorandum in Support of Motion to Stay Separate State Court Proceedings, at 6 (August 16, 1991). The federal court itself acknowledges that this litigation has reached "the eleventh hour." Emison v. Growe, No. 4-91-202, at 14 (D. Minn. Dec. 5, 1991).

The legislature has represented that its work on legislative redistricting in January 1992, will likely be limited to an attempt to pass the technical corrections bill that constituted its plan proposal to this court. In view of the governor's affidavit filed in Emison v. Growe, stating an intent to veto such a bill, and given the time constraints posed by the upcoming caucuses, we have perceived a clear obligation to complete our review process. Our intent has been to approve a valid redistricting plan that could take effect in time for precinct caucuses, while leaving ample time for appeal, if any. Although the effective date of our order is subject to the federal court's stay, legislative redistricting is now complete and ready to be implemented absent an alternative enactment by the state and subject to whatever review is deemed necessary.

Establishing boundaries for congressional districts presents different issues because the legislature and the governor have not acted. As we stated in our

November 21, 1991 order, we do not intend to proceed until they have had an opportunity to act. One plan has been reported out of the redistricting committees, and the legislature is scheduled to meet from January 6 through January 17, 1992, to consider congressional redistricting. The federal court's statement in its December 5 order (p. 7, footnote 6) that we have indicated we would issue a congressional redistricting plan by the end of December is simply wrong, without any basis and contrary to the language of our previous orders. See Cotlow v. Growe, No. C8-91-985 (Minn. Sp. Redistricting Panel Sept. 13, 1991) (setting state legislative redistricting schedule); Cotlow v. Growe, No. C8-91-985, at 7 (Minn. Sp. Redistricting Panel Nov. 21, 1991) (emphasizing deferral of congressional redistricting plans submission). We have not until today even scheduled a date for submission of congressional plans. Formal action on such a plan awaits resolution of the legislative process and further order from the federal court.

Legislative Redistricting

In making the following changes to boundaries of legislative districts, we have retained the legislative format to facilitate comparison with the original text. Additions to Chapter 246 have been underscored. Annotations are provided after the district descriptions in which corrections or changes have been made. In some districts in which proposed changes were rejected, annotations explain the reason for the rejection.

In interpreting the redistricting statute, various published maps and geographic data sources have been consulted. No particular preferences were given to any sources other than the official state highway map. We used the census bureau's TIGER files and data system to compare the original census block data to the language of Chapter 246, the parties' proposals, and our own changes. Where the boundaries of Chapter 246 split populated census blocks, we modified the districts to the extent necessary to preserve the census blocks.

When required changes affected district populations, we endeavored to minimize the deviations from the ideal. In general, rather than exacerbating the deviation in one district while attempting to minimize the deviation in another, we tried to equalize the districts' deviations while bringing them as close to the ideal as possible. Tables listing house and senate district populations and deviations and minority group populations have been appended as Exhibits A, B, C, and D. A tape of the electronic plan file will be made and placed on file.

Sec. 2. {2.043} FIRST DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 1 consists of all of Kittson, Lake of the Woods, Marshall,

Pennington, Red Lake, and Roseau Counties, and that portion of Polk County consisting of Angus Township, Belgium Township, Brandt Township, Brislet Township, the city of East Grand Forks, Esther Township, Euclid Township, Farley Township, Grand Forks Township, Helgeland Township, Higdem Township, Huntsville Township, Keystone Township, Northland Township, Rhinehart Township, Sandsville Township, Sullivan Township, and Tabor Township.

Subd. 2. HOUSE DISTRICTS. Senate district 1 is divided into two house districts as follows:

(a) House district 1A consists of that portion of senate district 1 not included in house district 1B.

(b) House district 1B consists of all of Pennington and Red Lake Counties, that portion of Polk County contained in senate district 1, and that portion of Marshall County consisting of the city of Alvarado, Boxville Township, Comstock Township, McCrea Township, Oak Park Township, the city of Oslo, Vega Township, the city of Viking, Viking Township, the city of Warren, and Warrenton Township.

Sec. 3. {2.053) SECOND DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 2 consists of all of Clearwater, Mahnomen, and Norman Counties, that portion of Becker County not included in senate district 9 or 11, that portion of Beltrami County consisting of Alaska Township, Battle Township, Benville Township, the city of Blackduck, Buzzle Township, Cormant Township, Durand

Township, the city of Funkley, Hagali Township, Hamre Township, Hines Township, Hornet Township, the city of Kelliher, Kelliher Township, Langor Township, Lee Township, Liberty Township, the unorganized territory of Lower Red Lake, Maple Ridge Township, Minnie Township, Nebish Township, the unorganized territory of North Beltrami, O'Brien Township, Quiring Township, Roosevelt Township, Shooks Township, Shotley Township, the unorganized territory of Shotley Brook, Spruce Grove Township, Steenerson Township, Summit Township, the unorganized territory of Upper Red Lake, Waskish Township, and Woodrow Township, that portion of Clay County consisting of the city of Felton, Felton Township, Flowing Township, the city of Georgetown, Georgetown township, Goose Prairie Township, Hagen Township, Keene Township, Kragnes Township, Morken Township, the city of Ulen, Ulen Township, and Viding Township, and that portion of Polk County not included in senate district 1.

Subd. 2. HOUSE DISTRICTS. Senate district 2 is divided into two house districts as follows:

(a) House district 2A consists of all of Norman County, that portion of Becker County consisting of Atlanta Township, Cuba Township, Hamden Township, Riceville Township, Spring Creek Township, and Walworth Township, that portion of Clay County in senate district 2, that portion of Mahnomen County consisting of the city of Bejou, Bejou Township, Chief Township, Gregory Township, the city of Mahnomen, Marsh Creek Township, Pembina Township, Popple Grove Township, Rosedale Township, and the city of

Waubun, and that portion of Polk County consisting of Andover Township, Badger Township, the city of Beltrami, Bygland Township, the city of Climax, the city of Crookston, Crookston Township, the city of Erskine, Fairfax Township, Fanny Township, the city of Fertile, the city of Fisher, Fisher Township, Garden Township, Garfield Township, Gentilly Township, Godfrey Township, Grove Park Township, Hammond Township, Hubbard Township, Kertsonville Township, King Township, Knute Township, Liberty Township, Lowell Township, the city of McIntosh, the city of Mentor, Nesbit Township, the city of Nielsville, Onstad Township, Parnell Township, Reis Township, Roome Township, Russia Township, Scandia Township, Sletten Township, Tilden Township, Tynsid Township, Vineland Township, the city of Winger, Winger Township, and Woodside Township.

(b) House district 2B consists of that portion of senate district 2 not included in house district 2A.

Sec. 4. {2.063} THIRD DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 3 consists of all of Itasca County except the unorganized territory of Bowstring Lake, that portion of Aitkin County consisting of the city of Aitkin, Aitkin Township, Ball Bluff Township, Balsam Township, Cornish Township, Fleming Township, the city of Hill City, Hill Lake Township, Jevne Township, Libby Township, Logan Township, Macville Township, Morrison Township, the unorganized territory of

Northeast Aitkin, the unorganized territory of Northwest Aitkin, the city of Palisade, Spencer Township, Turner Township, Verdon Township, Waukenabo Township, and Workman Township, that portion of Koochiching County not included in senate district 6, and that portion of St. Louis County consisting of Alango Township, Fine Lakes Township, the city of Floodwood, Floodwood Township, French Township, Halden Township, Linden Grove Township, the unorganized territory of McCormack Lake ~~(59-21)~~, Morcom Township, Prairie Lake Township, that portion of the unorganized territory of Northwest St. Louis consisting of precinct 62-21, that portion of the unorganized territory of Sand Lake consisting of the precinct of ~~-~~West Sand Lake ~~(60-20)~~, and Sturgeon Township.

Annotation: The modified list of unorganized territories and precincts in the district clarifies the portions of St. Louis County included in senate district 3 but does not alter its composition.

Subd. 2. HOUSE DISTRICTS. Senate district 3 is divided into two house districts as follows:

(a) House district 3A consists of that portion of senate district 3 not included in house district 3B.

(b) House district 3B consists of that portion of Aitkin County included in senate district 3, that portion of Itasca County consisting of Blackberry Township, the city of Bovey, the city of Coleraine, Feeley Township, Goodland Township, Grand Rapids Township, Greenway Township, Harris

Township, Iron Range Township, the city of Keewatin, the unorganized territory of Little Sand Lake, Lone Pine Township, Nashwauk Township, Sago Township, Splithand Township, Trout Lake Township, the city of Warba, Wawina Township, and Wildwood Township, and that portion of St. Louis County consisting of Fine Lakes Township, the city of Floodwood, Floodwood Township, Halden Township, and Prairie Lake Township.

Sec. 5. {2.073} FOURTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 4 consists of all of Hubbard County, that portion of Beltrami County not included in senate district 2, that portion of Cass County not included in senate district 12, that portion of Itasca County not included in senate district 3, and that portion of Wadena County not included in senate district 11.

Subd. 2. HOUSE DISTRICTS. Senate district 4 is divided into two house districts as follows:

(a) House district 4A consists of that portion of Beltrami County in senate district 4, and that portion of Hubbard County consisting of the city of Akeley, Akeley Township, Arago Township, Clay Township, Clover Township, Farden Township, Fern Township, Guthrie Township, Hart Lake Township, Helga Township, Hendrickson Township, Lake Alice Township, Lake Emma Township, Lake George Township, Lake Hattie Township, Lakeport Township, the city of Laporte, Mantrap Township, Rockwood

Township, Schoolcraft Township, Steamboat River Township, Thorpe Township, and White Oak Township.

(b) House district 4B consists of that portion of senate district 4 not included in house district 4A.

Sec. 6 {2.083} FIFTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 5 consists of that portion of St. Louis County consisting of Alborn Township, Angora Township, Arrowhead Township, Balkan Township, the city of Biwabik, Biwabik Township, the city of Brookston, the city of Buhl, Cedar Valley Township, Cherry Township, the city of Chisholm, Clinton Township, Colvin Township, Cotton Township, Culver Township, Ellsburg Township, Elmer Township, Embarrass Township, the city of Eveleth, Fayal Township, the city of Franklin, the city of Gilbert, Great Scott Township, the unorganized territory of Hay Lake, the unorganized territory of Heikkila Lake, the city of Hibbing, the city of Iron Junction, the unorganized territory of Janette Lake, Kelsey Township, Kugler Township, **that portion of the unorganized territory of Lake Vermilion consisting of Vermilion Lake Precinct (62-17),** Lavell Township, the city of Leonidas, McDavitt Township, the city of McKinley, the city of Meadowlands, Meadowlands Township, the city of Mountain Iron, Ness Township, New Independence Township, Northland Township, Payne Township, Pike Township, the unorganized territory of Potshot Lake, that portion of the unorganized territory of Sand Lake consisting of the precincts of East Sand

Lake (59-18), 60-18, and 60-19, Sandy Township, Stoney Brook Township, Toivola Township, Van Buren Township, Vermilion Lake Township, the city of Virginia, White Township, and Wuori Township.

Annotation: As with senate district 3, these changes simply clarify unorganized territories and precincts included in senate district 5.

Subd. 2. HOUSE DISTRICTS. Senate district 5 is divided into two house districts as follows:

(a) House district 5A consists of that portion of senate district 5 not included in house district 5B.

(b) House district 5B consists of that portion of St. Louis County consisting of Alborn Township, Arrowhead Township, Balkan Township, the city of Brookston, the city of Buhl, Cedar Valley Township, Cherry Township, the city of Chisholm, Clinton Township, Cotton Township, Culver Township, Ellsburg Township, Elmer Township, Great Scott Township, the city of Hibbing, the city of Iron Junction, the unorganized territory of Janette Lake, Kelsey Township, Lavell Township, McDavitt Township, the city of Meadowlands, Meadowlands Township, Ness Township, New Independence Township, Northland Township, Payne Township, the unorganized territory of Potshot Lake, Stoney Brook Township, Toivola Township, and Van Buren Township.

Sec. 7. {2.093} SIXTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 6

consists of all of Cook and Lake Counties, that portion of Koochiching County consisting of the unorganized territory of Nett Lake, and that portion of St. Louis County not included in senate district 3, 5, 7, or 8.

Subd. 2. HOUSE DISTRICTS. Senate district 6 is divided into two house districts as follows:

(a) House district 6A consists of that portion of senate district 6 not included in house district 6B.

(b) House district 6B consists of that portion of St. Louis County consisting of Alden Township, North Star Township, Normanna Township, Gnesen Township, Rice Lake Township, Lakewood Township, Duluth Township, Canosia Township, and Fredenburg Township, and that portion of the city of Duluth not included in senate district 7.

Sec. 8. {2.103} SEVENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 7 consists of that portion of St. Louis County consisting of that portion of the city of Duluth lying west and south of a line described as follows: commencing at the intersection of the northern boundary of the city of Duluth and Calvary Road, easterly along Calvary Road to Woodland Avenue, southerly along Woodland Avenue to **Bruce** Street, easterly along **Bruce** Street to Wallace Avenue, southerly along Wallace Avenue to 5th Street, westerly along 5th Street to 21st Avenue, southerly along 21st Avenue to 4th Street, westerly along 4th Street to 15th Avenue, southeasterly along 15th Avenue to 1st Street, westerly along 1st Street to

12th Avenue East, southeasterly along 12th Avenue East to London Road, northeasterly along London Road to 13th Avenue East, southerly along 13th Avenue East and its extension to Lake Superior.

Annotation: Woodland Avenue does not intersect with Buffalo Street, but three streets do connect Woodland Avenue to Wallace Avenue. Using Arrowhead Road would have increased the population deviation in senate district 6 and pushed the deviation in house district 7B over the adopted, 2% maximu n deviation governing all court-modified districts. Because Bruce Street improves deviations in senate district 6 and in districts 7 and 7B, it was chosen over St. Marie Street, which would create adequate but slightly higher deviations.

Subd. 2. HOUSE DISTRICTS. Senate district 7 is divided into two house districts as follows:

(a) House district 7B consists of that portion of senate district 7 lying east of a line described as follows: commencing at the intersection of the northern boundary of the city of Duluth and Rice Lake Road, southerly and southeasterly along Rice Lake Road **and Arrowhead Road** to Mesaba Avenue, southerly along Mesaba Avenue to 13th Street, easterly along 13th Street to 6th Avenue East, southerly along 6th Avenue East **to** State Highway 194, southwesterly along State Highway 194 to Mesaba Avenue, southerly along Mesaba Avenue to Lake Avenue, northerly along Lake Avenue to 9th Street, southwesterly along 9th Street to 1st Avenue West, northwesterly along 1st Avenue West **to Clark House Creek,**

northwesterly along Clark House Creek to 13th Street, southwesterly along 13th Street to 5th Avenue West, southerly along 5th Avenue West to 9th Street, southwesterly along 9th Street to **the intersection of 11th Avenue West and** Observation Road, northerly and westerly along Observation Road to Arlington Avenue, southerly along Arlington Avenue to U.S. Highway 53, southerly along U.S. Highway 53 to 14th Street, southwesterly along 14th Street to Miller Creek, southerly along Miller Creek to **an extension of 7th Street, northeasterly along the extension of 7th Street to 25th Avenue West, southeasterly along 25th Avenue West** to 6th Street, northeasterly along 6th Street to 22nd Avenue West, southeasterly along 22nd Avenue West to Superior Street, northeasterly along Superior Street to 21st Avenue West, southeasterly along 21st Avenue West **to Interstate Highway 35, southwesterly along Interstate Highway 35 to Interstate Highway 535, southeasterly along Interstate Highway 535** and its extension to St. Louis Bay.

(b) House district 7A consists of that portion of senate district 7 not included in house district 7B.

Annotation: Four corrections in the house boundary description clarify ambiguities. Before intersecting with Mesaba Avenue, Rice Lake Road turns briefly into Arrowhead Road; a reference to the latter was included.

The description of the boundary as it moves from 1st Avenue West to Rudolph Avenue and its extension to Blackman and Orange Avenues is also ambiguous.

Because the census blocks follow Clark House Creek in this area, this reference is substituted to clarify the boundary line.

Further along this boundary, Chapter 246 attempted to follow Miller Creek to an extension of 6th Street. To avoid splitting a census block, we have substituted an extension of 7th Street and then followed 25th Avenue West to 6th Street to preserve as much of the original boundary as possible.

Finally, the references to Interstate Highways 35 and 535 conform the boundary with the census block information. These changes are intended to clarify the boundary in Chapter 246 while preserving its basic form and minimizing population deviations in all of the affected districts.

Sec. 9. {2.113} EIGHTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 8 consists of all of Carlton County, that portion of St. Louis County consisting of Brevator Township, the city of Hermantown, Industrial Township, Midway Township, the city of Proctor, and Solway Township, that portion of Aitkin County not included in senate district 3, and that portion of Pine County not included in senate district 18.

Subd. 2 HOUSE DISTRICTS. Senate district 8 is divided into two house districts as follows:

(a) House district 8A consists of that portion of St. Louis County included in senate district 8, and that portion of Carlton County consisting of the city of Carlton, the city of Cloquet, the city of Scanlon, the city of Thomson, Thomson Township,

and Twin Lakes Township.

(b) House district 8B consists of that portion of senate district 8 not included in house district 8A.

Sec. 10 {2.123} NINTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 9 consists of all of Wilkin County, that portion of Becker County consisting of the city of Audubon, Audubon Township, Cormorant Township, Lake Eunice Township, the city of Lake Park, and Lake Park Township, that portion of Clay County not included in senate district 2, and that portion of Otter Tail County consisting of Carlisle Township, Dunn Township, the city of Elizabeth, Elizabeth Township, the city of Erhard, Erhards Grove Township, Lida Township, Maplewood Township, Norwegian Grove Township, Orwell Township, Oscar Township, Pelican Township, the city of Pelican Rapids, the city of Rothsay, Scambler Township, Trondhjem Township, and Western Township.

Subd. 2. HOUSE DISTRICTS. Senate district 9 is divided into two house districts as follows:

(a) House district 9A consists of that portion of Clay County consisting of the city of Moorhead, **Moorhead Township, and those portions of Oakport Township surrounded by the city of Moorhead**.

(b) House district 9B consists of that portion of senate district 9 not included in house district 9A.

Annotation: Including the portions of Oakport Township surrounded by Moorhead in house district 9A was the simplest way to ensure contiguity in house districts 9A and 9B. The state map of Chapter 246 does not reveal a contrary, curative legislative intent. It does suggest an intent to include Moorhead Township in house district 9A. To ensure this corrected district's compliance with the adopted, 2% deviation criterion, we added Moorhead Township to house district 9A. In instances such as these, where substantive modifications were made to eliminate constitutional defects, the modifications were drafted to comply with the adopted criteria.

Sec. 11 {2.133) TENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 10 consists of that portion of Douglas County not included in senate district 11 or 13, that portion of Otter Tail County not included in senate district 9 or 11, that portion of Pope County consisting of the city of Glenwood, Glenwood Township, Grove Lake Township, Leven Township, the city of Long Beach, Minnewaska Township, Reno Township, the city of Villard, the city of Westport, and Westport Township, and that portion of Stearns County consisting of Ashley Township, Getty Township, Raymond Township, the city of Sauk Centre, and Sauk Centre Township.

Subd. 2. HOUSE DISTRICTS. Senate district 10 is divided into two house districts as follows:

(a) House district 10A consists of that portion of Douglas County consisting of the city of Evansville, Evansville Township, Leaf Valley

Township, Lund Township, the city of Millerville, Millerville Township, the city of Miltona, Miltona Township, and that portion of Otter Tail County included in senate district 10.

(b) House district 10B consists of that portion of Senate district 10 not included in house district 10A.

Sec. 12. {2.143} ELEVENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 11 consists of all of Todd County, that portion of Becker County consisting of Burlington Township, Detroit Township, the city of Detroit Lakes, Erie Township, the city of Frazee, and Lake View Township, that portion of Douglas County consisting of Belle River Township, the city of Osakis, Osakis Township, and Spruce Hill Township, that portion of Otter Tail County consisting of Blowers Township, the city of Bluffton, Bluffton Township, Butler Township, Candor Township, Compton Township, Corliss Township, the city of Deer Creek, Deer Creek Township, the city of Dent, Dora Township, Eastern Township, Edna Township, Gorman Township, Hobart Township, Homestead Township, Newton Township, the city of New York Mills, Oak Valley Township, Otto Township, Paddock Township, the city of Perham, Perham Township, Pine Lake Township, the city of Vergas, the city of Wadena, and Woodside Township, that portion of Stearns County consisting of <u>the portion of</u> Melrose Township <u>not surrounded by the city of Melrose</u>, Millwood Township, and the city of St. Rosa, and that portion of Wadena County consisting of the city of Aldrich, Aldrich Township, Bullard Township,

Leaf River Township, Red Eye Township, Rockwood Township, the city of Sebeka, the city of Staples, Thomastown Township, the city of Verndale, the city of Wadena, Wadena Township, and Wing River Township.

Annotation: To correct this otherwise noncontiguous district, we qualified the portion of Melrose Township to be included, explicitly excluding the portion of Melrose Township that is surrounded by the city of Melrose. This section of Melrose Township falls with the city of Melrose and other portions of Stearns County not assigned to senate districts 10, 11, 16, or 20 into senate district 14.

Subd. 2 HOUSE DISTRICTS. Senate district 11 is divided into two house districts as follows:

(a) House district 11A consists of that portion of Becker County included in senate district 11, that portion of Otter Tail County included in senate district 11, excluding Eastern Township, Oak Valley Township, and Woodside Township, and that portion of Wadena County consisting of Leaf River Township, Red Eye Township, Rockwood Township, the city of Sebeka, and the city of Wadena.

(b) House district 11B consists of that portion of senate district 11 not included in house district 11A.

Sec. 13. {2.153} TWELFTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 12

consists of all of Crow Wing County, that portion of Cass County consisting of the cities of Motley and Pillager, and that portion of Morrison County not included in senate district 14 or 17.

Subd. 2. HOUSE DISTRICTS. Senate district 12 is divided into two house districts as follows:

(a) House district 12A consists of that portion of Crow Wing County consisting of the city of Brainerd, the city of Breezy Point, Center Township, the city of Crosby, the city of Crosslake, the city of Cuyuna, Dean Lake Township, the city of Emily, Fairfield Township, the city of Fifty Lakes, Gail Lake Township, Ideal Township, Irondale Township, the city of Ironton, the city of Jenkins, Jenkins Township, Lake Edwards Township, Little Pine Township, the city of Manhattan Beach, Mission Township, the city of Nisswa, Oak Lawn Township, Pelican Township, the city of Pequot Lakes, Perry Lake Township, Rabbit Lake Township, Ross Lake Township, Sibley Township, Timothy Township, the city of Trommald, the unorganized territory of West Crow Wing, and Wolford Township.

(b) House district 12B consists of that portion of senate district 12 not included in house district 12A.

Sec. 14. {2.163} THIRTEENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 13 consists of all of Big Stone, Grant, Lac qui Parle, Stevens, Swift, and Traverse Counties, that portion of

Chippewa County not included in senate district 15, that portion of Douglas County consisting of Holmes City Township, the city of Kensington, Solem Township, and Urness Township, and that portion of Pope County not included in senate district 10 or 14.

Subd. 2. HOUSE DISTRICTS. Senate district 13 is divided into two house districts as follows:

(a) House district 13A consists of all of Grant, Stevens, and Traverse Counties, that portion of Big Stone County consisting of the city of Barry, Browns Valley Township, the city of Graceville, Graceville Township, Malta Township, Moonshine Township, and Toqua Township, that portion of Douglas County contained in senate district 13, that portion of Pope County contained in senate district 13, and that portion of Swift County consisting of the city of Appleton, Appleton Township, the city of Danvers, Edison Township, Fairfield Township, Hegbert Township, the city of Holloway, Marysland Township, Moyer Township, Shible Township, Tara Township, and West Bank Township.

(b) House district 13B consists of that portion of senate district 13 not included in house district 13A.

Sec. 15. {2.173} FOURTEENTH DISTRICT.

Subivision 1. SENATE DISTRICT. Senate district 14 consists of that portion of Benton County consisting of the cities of Rice and Sartell, that portion of Morrison County consisting of Bellevue Township, the city of

Bowlus, the city of Elmdale, Elmdale Township, the city of Royalton, Swan River Township, Two Rivers Township, and the city of Upsala, that portion of Pope County consisting of Bangor Township, the city of Brooten, Lake Johanna Township, and the city of Sedan, and that portion of Stearns County not included in senate district 10, 11, 16, or 20.

Annotation: Chapter 246 assigned the Stearns County portion of Eden Valley to senate districts 14 and 20. Examination of the state map of Chapter 246, used in committee and during presentation of the bill in the house and senate, indicates an intent to place this area in senate district 20. Adding a reference to the portion of Stearns County in senate district 20 to the list of excluded areas in senate district 14 eliminates the double assignment and effectuates legislative intent.

Subd. 2. HOUSE DISTRICTS. Senate district 14 is divided into two house districts as follows:

(a) House district 14A consists of that portion of senate district 14 not included in house district 14B.

(b) House district 14B consists of that portion of Pope County contained in senate district 14, and that portion of Stearns County consisting of the city of Belgrade, the city of Brooten, the city of Cold Spring, Collegeville Township, Crow Lake Township, Crow River Township, Eden Lake Township, the city of Elrosa, Fair Haven Township, Farming Township, the city of Freeport, the city of Greenwald, Grove Township,

the city of Kimball Prairie, Lake George Township, the city of Lake Henry, Lake Henry Township, Luxemburg Township, Lynden Township, Maine Prairie Township, the city of Meire Grove, the city of Melrose, **the portion of Melrose Township surrounded by the city of Melrose,** Munson Township, the city of New Munich, North Fork Township, Oak Township, the city of Paynesville, Paynesville Township, the city of Richmond, the city of Rockville, Rockville Township, the city of Roscoe, the city of St. Martin, St. Martin Township, the city of Spring Hill, Spring Hill Township, Wakefield Township, and Zion Township.

Annotation: To ensure contiguity, the portions of Melrose Township surrounded by the city of Melrose had to be assigned to this district.

Sec. 16. {2.183} FIFTEENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 15 consists of all of Kandiyohi and Renville Counties, that portion of Chippewa County consisting of the city of Granite Falls, and Granite Falls Township, that portion of McLeod County consisting of Collins Township, Lynn Township, and the city of Stewart, that portion of Meeker County consisting of Acton Township, the city of Cedar Mills, Cedar Mills Township, the city of Cosmos, Cosmos Township, Danielson Township, Greenleaf Township, and the city of Grove City, and that portion of Yellow Medicine County consisting of the city of Granite Falls.

Subd. 2 HOUSE DISTRICTS. Senate district 15 is

divided into two house districts as follows:

(a) House district 15A consists of that portion of Kandiyohi County consisting of Arctander Township, Burbank Township, Colfax Township, Dovre Township, Green Lake Township, Harrison Township, Irving Township, the city of Kandiyohi, Kandiyohi Township, Lake Andrew Township, Mamre Township, the city of New London, New London Township, Norway Lake Township, the city of Pennock, the city of Regal, Roseville Township, St. Johns Township, the city of Spicer, the city of Sunburg, the city of Willmar, and Willmar Township.

(b) House district 15B consists of that portion of senate district 15 not included in house district 15A.

Sec. 17. {2.193} SIXTEENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 16 consists of that portion of Stearns County consisting of St. Augusta Township, the city of St. Cloud, St. Cloud Township, and the city of Waite Park, and that portion of Benton County consisting of the city of Sauk Rapids, except that portion of the city of Sauk Rapids surrounded by Sauk Rapids Township, the portions of Sauk Rapids Township surrounded by the city of Sauk Rapids, and the city of St. Cloud, except that portion of the city of St. Cloud lying east of a line described as follows: commencing at the intersection of the eastern boundary of the city of St. Cloud and State Highway 23, southwesterly along State Highway 23 to 14th Avenue Southeast, southerly along 14th Avenue

Southeast to **County Road 47**, easterly along **County Road 47** to the eastern boundary of the city of St. Cloud.

Annotation: To resolve any confusion over the eastern boundary of this senate district, County Road 47 replaces 2nd Street Southeast. This clarification does not alter the physical location of the district boundary.

Subd. 2. HOUSE DISTRICTS. Senate district 16 is divided into two house districts as follows:

(a) House district 16A consists of that portion of Benton County in senate district 16, and that portion of Stearns County consisting of that portion of the city of St. Cloud lying east and north of a line described as follows: commencing at the intersection of the northern boundary of the city of St. Cloud and the extension of 25th Avenue North, southerly along the extension of 25th Avenue North to the Sauk River, southerly and westerly along the Sauk River to **an extension of** 33rd Avenue North, southerly along **the extension and** 33rd Avenue North to 5th Street North, easterly along 5th Street North to 30th Avenue North, southerly along 30th Avenue North and 30th Avenue South to 1st Street South, easterly along 1st Street South to 25th Avenue South, northerly along 25th Avenue South and 25th Avenue North to 2nd Street North, easterly along 2nd Street North to Cooper Avenue North, southerly along Cooper Avenue North to West St. Germain Street, northeasterly along West St. Germain Street to **15th** Avenue

South, southeasterly along **15th** Avenue South to **7th** Street South, **easterly** along **7th** Street South to **East Lake Boulevard South, northerly along East Lake Boulevard South to** 5th Street South, easterly along 5th Street South to 4th Avenue South, southerly along 4th Avenue South to 10th Street South, easterly along 10th Street south to the Mississippi River.

(b) House district 16B consists of that portion of senate district 16 not included in house district 16A.

Annotation: Because 33rd Avenue North does not cross the Sauk River, an "extension" of 33rd Avenue North was needed to bridge the gap. This extension preserves the intent of Chapter 246 while conforming to the census boundaries.

We also clarified and altered slightly the house districts' boundary between West St. Germain Street and 5th Street South. The description in Chapter 246 did not conform to the census boundaries. The new description follows both the census and the Minnesota Department of Transportation (Mn/DOT) annotations and distributes population in compliance with the 2% deviation criterion.

Sec. 18. {2.203} SEVENTEENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 17 consists of Mille Lacs County, that portion of Benton County not included in senate district 14 or 16, that portion of Kanabec County not included in senate district 18, that portion of Sherburne County not

included in senate district 19, and that portion of Morrison County consisting of: the city of Buckman, Buckman Township, the city of Genola, Granite Township, the city of Harding, the city of Hillman, Hillman Township, Lakin Township, the city of Lastrup, Leigh Township, Morrill Township, Mount Morris Township, Pierz Township, Pulaski Township, and Richardson Township.

Subd. 2. HOUSE DISTRICTS. Senate district 17 is divided into two house districts as follows:

(a) House district 17A consists of that portion of senate district 17 not included in house district 17B.

(b) House district 17B consists of those portions of Benton and Sherburne Counties located in senate district 17.

Sec. 19. {2.213} EIGHTEENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 18 consists of all of Chisago County, all of Isanti County, that portion of Kanabec County consisting of **the city of Braham,** Brunswick Township, Grass Lake township, the city of Grasston, and South Fork Township, and that portion of Pine County consisting of the city of Pine City, Pine City Township, the city of Rock Creek, and Royalton Township.

Annotation: By failing to include the small, unpopulated portion of the city of Braham in Kanabec County in senate district 18, Chapter 246 left this in senate district 17, with which it is not contiguous. The

only reasonable correction of this defect is assigning this portion of Braham to senate district 18, which contains the rest of the city.

Subd. 2. HOUSE DISTRICTS. Senate district 18 is divided into two house districts as follows:

(a) House district 18A consists of all of Isanti County, that portion of Chisago County consisting of Lent Township and the city of Stacy, that portion of Kanabec County contained in senate district 18, and that portion of Pine County consisting of Royalton Township.

(b) House district 18B consists of that portion of senate district 18 not included in house district 18A.

Sec. 20. {2.223} NINETEENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 19 consists of that portion of Sherburne County consisting of the city of Becker, Becker Township, the city of Big Lake, Big Lake Township, the city of Clear Lake, Clear Lake Township, and the city of Elk River, and that portion of Wright County consisting of the city of Albertville, the city of Annandale, the city of Buffalo, Buffalo Township, Chatham Township, the city of Clearwater, Clearwater Township, Corinna Township, Frankfort Township, the city of Maple Lake, Maple Lake Township, the city of Monticello, Monticello Township, Otsego Township, the city of St. Michael, and Silver Creek Township.

Subd. 2. HOUSE DISTRICTS. Senate district 19 is

divided into two house districts as follows:

(a) House district 19A consists of that portion of senate district 19 not included in house district 19B.

(b) House district 19B consists of that portion of Sherburne County consisting of the city of Elk River, and that portion of Wright County consisting of the city of Albertville, the city of Buffalo, Buffalo Township, Frankfort Township, Otsego Township, and the city of St. Michael.

Annotation: The legislature's proposed plan moved Chatham Township from house district 19A to house district 19B. Although such a change would improve the population deviation of 19B from 2.00% to -1.43%, the district as constructed in Chapter 246 is unambiguous and constitutionally sound. No change is warranted.

Sec. 21. {2.233} TWENTIETH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 20 consists of that portion of Carver County consisting of the city of Hamburg, Hollywood Township, the city of Norwood, the city of Watertown, Watertown Township, the city of Young America, and Young America Township, that portion of McLeod County not included in senate district 15 or 23, that portion of Meeker County not included in senate district 15, that portion of Stearns County consisting of the city of Eden Valley, and that portion of Wright County not included in senate district 19, 33, or 34.

Annotation: Chapter 246 included in senate district

20 the portion of Wright County not included in senate districts 19 or 34. This placed a small segment of the city of Dayton in senate district 20, with which it is not contiguous. The contiguity problem is eliminated by placing this portion of Dayton in senate district 33, which contains the rest of the city, and limiting the portion of Wright County to be included in senate district 20 to that not contained in senate district 19, 33, or 34.

Subd. 2. HOUSE DISTRICTS. Senate district 20 is divided into two house districts as follows:

(a) House district 20A consists of that portion of senate district 20 not included in house district 20B.

(b) House district 20B consists of that portion of Carver County included in senate district 20, that portion of McLeod County consisting of Bergen Township, Hale Township, Helen Township, the city of Lester Prairie, the city of Plato, Rich Valley Township, the city of Silver Lake, the city of Winsted, and Winsted Township, and that portion of Wright County consisting of Albion Township, the city of Cokato, Cokato Township, French Lake Township, the city of Howard Lake, Marysville Township, Middleville Township, the city of Montrose, the city of South Haven, Southside Township, Victor Township, the city of Waverly, and Woodland Township.

Sec. 22. {2.243} TWENTY-FIRST DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 21 consists of all of Lincoln, Pipestone, and Rock

Counties, all of Lyon County except that included in senate district 22, all of Yellow Medicine County excluding the city of Granite Falls, that portion of Murray County consisting of Cameron Township, Chanarambie Township, the city of Chandler, Ellsborough Township, the city of Lake Wilson, and Moulton Township, that portion of Nobles County consisting of the city of Adrian, the city of Ellsworth, Grand Prairie Township, Leota Township, the city of Lismore, Lismore Township, and Westside Township, and that portion of Redwood County consisting of Gales Township, Granite Rock Township, Johnsonville Township, the city of Lucan, the city of Milroy, the city of Seaforth, Sheridan Township, Underwood Township, Vail Township, the city of Vesta, Vesta Township, the city of Wabasso, Waterbury Township, and Westline Township.

Subd. 2. HOUSE DISTRICTS. Senate district 21 is divided into two house districts as follows:

(a) House district 21A consists of that portion of senate district 21 not included in house district 21B.

(b) House district 21B consists of all of Lincoln, Pipestone, and Rock Counties, that portion of Lyon County consisting of Coon Creek Township, the city of Florence, Island Lake Township, Nordland Township, and Shelburne Township, and those portions of Murray and Nobles Counties contained in senate district 21.

Sec. 23. {2.253} TWENTY-SECOND DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 22 consists of all of Cottonwood and Jackson Counties, that portion of Brown County consisting of Albin Township, Bashaw Township, the city of Comfrey, Mulligan Township, and Stately Township, that portion of Lyon County consisting of the city of Balaton, Custer Township, the city of Garvin, Monroe Township, Rock Lake Township, and the city of Tracy, that portion of Martin County consisting of Cedar Township, the city of Ceylon, the city of Dunnell, Elm Creek Township, Fox Lake Township, Galena Township, Jay Township, Lake Belt Township, Lake Fremont Township, Manyaska Township, the city of Ormsby, the city of Sherburn, the city of Trimont, and the city of Welcome, that portion of Murray County not included in senate district 21, that portion of Nobles County not included in senate district 21, that portion of Redwood County consisting of the city of Lamberton, Lamberton Township, North Hero Township, the city of Revere, Springdale Township, and the city of Walnut Grove, and that portion of Watonwan County consisting of Adrian Township, the city of Butterfield, Butterfield Township, the city of Darfur, Long Lake Township, Nelson Township, the city of Odin, Odin Township, the city of Ormsby, and St. James Township.

Subd. 2. HOUSE DISTRICTS. Senate district 22 is divided into two house districts as follows:

(a) House district 22A consists of that portion of Cottonwood County consisting of Ann Township, Rose Hill Township, Southbrook Township, the city of Westbrook, and Westbrook Township, that portion of Jackson County consisting of Alba

Township, Ewington Township, and La Crosse Township, that portion of Lyon County included in senate district 22, that portion of Murray County included in senate district 22, that portion of Nobles County included in senate district 22, and that portion of Redwood County consisting of North Hero Township, the city of Revere, Springdale Township, and the city of Walnut Grove.

(b) House district 22B consists of that portion of senate district 22 not included in house district 22A.

Sec. 24. {2.263} TWENTY-THIRD DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 23 consists of that portion of Blue Earth County consisting of Butternut Valley Township, Cambria Township, and Judson Township, that portion of Brown County consisting of Burnstown Township, the city of Cobden, Cottonwood Township, Eden Township, the city of Evan, the city of Hanska, Home Township, Lake Hanska Township, Leavenworth Township, Linden Township, Milford Township, the city of New Ulm, North Star Township, Prairieville Township, Sigel Township, the city of Sleepy Eye, the city of Springfield, and Stark Township, that portion of McLeod County consisting of the city of Brownton, the city of Glencoe, Glencoe Township, Penn Township, Round Grove Township, and Sumter Township, that portion of Nicollet County not included in senate district 24, that portion of Redwood County not included in senate district 21 or 22, and all of Sibley County except for Faxon Township.

Subd. 2. HOUSE DISTRICTS. Senate district 23 is divided into two house districts as follows:

(a) House district 23A consists of that portion of Brown County consisting of Burnstown Township, the city of Cobden, Eden Township, the city of Evan, Home Township, Milford Township, the city of New Ulm, North Star Township, Prairieville Township, the city of Sleepy Eye, and the city of Springfield, and that portion of Redwood County included in senate district 23.

(b) House district 23B consists of that portion of senate district 23 not included in house district 23A.

Sec. 25. {2.273} TWENTY-FOURTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 24 consists of that portion of Blue Earth County consisting of Lime Township, the city of Mankato, Mankato Township, **the city of North Mankato,** the city of Skyline, and South Bend Township, that portion of Le_Sueur County consisting of the city of Cleveland, Cleveland Township, the city of Kasota, Kasota Township, the city of Le_Sueur, Ottawa Township, and Washington Township, that portion of Nicollet County consisting of Belgrade Township, the city of Mankato, the city of North Mankato, Oshawa Township, the city of St. Peter, and Traverse Township.

Annotation: Although Chapter 246 placed the Nicollet County portion of the city of North Mankato in senate district 24, it failed to include the small portion

of the city located in Blue Earth County in this district, leaving the area instead in senate district 26, with which it is not contiguous. We corrected the noncontiguity problem in senate district 26 by placing the entire city of North Mankato in senate district 24.

Subd. 2. HOUSE DISTRICTS. Senate district 24 is divided into two house districts as follows:

(a) House district 24A consists of that portion of Nicollet County consisting of the city of Mankato, and that portion of Blue Earth County consisting of **that portion of** the city of Mankato **south of U.S. Highway 14, less those portions of the city of Mankato surrounded by Mankato Township, plus those portions of Mankato Township surrounded by the city of Mankato**, the city of Skyline, and South Bend Township.

(b) House district 24B consists of that portion of senate district 24 not included in house district 24A.

Annotation: Chapter 246 did not account for the portions of Mankato that are surrounded by Mankato Township and the portions of Mankato Township that are surrounded by Mankato; consequently, house districts 24A and 24B both contained noncontiguous portions. To correct these defects, we excluded from house district 24A the surrounded portions of Mankato and included the surrounded portions of Mankato Township. To offset the resulting population increase and minimize the population deviation in house district 24A, we excluded the portion of Mankato north of

Highway 12 from the district, which brought both house districts within the population criterion.

Sec. 26. {2.283} TWENTY-FIFTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 25 consists of all of Rice County, that portion of Dakota County consisting of the city of Northfield, that portion of Scott County consisting of the city of New Prague, that portion of Le Sueur County not included in senate district 24 or 35, **and that portion of Waseca County consisting of the city of Elysian**.

Annotation: Chapter 246 includes most of the city of Elysian, the portion located in Le Sueur County, in senate district 25. However, a tiny segment of the city located in Waseca County was not included in senate district 25, but instead fell into senate district 26 and, in particular, into house district 26A, with which it is not contiguous. To correct the noncontiguity problem and to avoid splitting the city of Elysian unnecessarily, this portion of Waseca County is included in senate district 25.

Subd. 2. HOUSE DISTRICTS. Senate district 25 is divided into two house districts as follows:

(a) House district 25A consists of those portions of Dakota and Scott Counties included in senate district 25, that portion of Le Sueur County consisting of the city of Heidelberg, Lanesburgh Township, the city of Le Center, Lexington Township, the city of Montgomery, Montgomery Township, and the city of New Prague, and that

portion of Rice County consisting of Bridgewater Township, the city of Dundas, Forest Township, the city of Lonsdale, the city of Northfield, Webster Township, and Wheatland Township.

(b) House district 25B consists of that portion of senate district 25 not included in house district 25A.

Sec. 27. {2.293} TWENTY-SIXTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 26 consists of all of Faribault County, that portion of Blue Earth County not included in senate district 23 or 24, that portion of Martin County not included in senate district 22, that portion of Waseca County not included in senate district 25 or 28, and that portion of Watonwan County not included in senate district 22.

Annotation: Including the reference to senate district 25 prevents a double assignment of the city of Elysian, and places the entire city in that district.

Subd. 2. HOUSE DISTRICTS. Senate district 26 is divided into two house districts as follows:

(a) House district 26A consists of that portion of senate district 26 not included in house district 26B.

(b) House district 26B consists of all of Faribault County, that portion of Blue Earth County consisting of Beauford Township, Danville Township, Decoria Township, the city of Eagle Lake, the city of Good Thunder, Jamestown

Township, Le Ray Township, Lyra Township, McPherson Township, the city of Madison Lake, the city of Mapleton, Mapleton Township, Medo Township, the city of Pemberton, the city of St. Clair, and Sterling Township, and that portion of Waseca County consisting of Alton Township, Byron Township, Freedom Township, the city of Janesville, Janesville Township, the city of New Richland, New Richland Township, Vivian Township, the city of Waldorf, and Wilton Township.

Sec. 28. {2.303} TWENTY-SEVENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 27 consists of all of Freeborn County, and that portion of Mower County not included in senate district 31.

Subd. 2. HOUSE DISTRICTS. Senate district 27 is divided into two house districts as follows:

(a) House district 27A consists of all of Freeborn County.

(b) House district 27B consists of that portion of senate district 27 not included in house district 27A.

Sec. 29. {2.313} TWENTY-EIGHTH DISTRICT.

Subd. 1. SENATE DISTRICT. Senate district 28 consists of all of Steele County, all of Dodge County except Vernon Township, that portion of Goodhue County consisting of Cherry Grove Township, Holden Township, Kenyon Township, the city of Kenyon,

Roscoe Township, Wanamingo Township, and the city of Wanamingo, that portion of Olmsted County consisting of the city of Byron and Kalmar Township, and that portion of Waseca County consisting of Blooming Grove Township, Iosco Township, Otisco Township, St. Mary Township, the city of Waseca, and Woodville Township.

Subd. 2 HOUSE DISTRICTS. Senate district 28 is divided into two house districts as follows:

(a) House district 28A consists of that portion of Steele County consisting of Clinton Falls Township, Deerfield Township, Meriden Township, Owatonna Township, and the city of Owatonna, and that portion of Waseca County consisting of Blooming Grove Township, Iosco Township, St. Mary Township, the city of Waseca, and Woodville Township.

(b) House district 28B consists of that portion of senate district 28 not included in house district 28A.

Sec. 30. {2.323} TWENTY-NINTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 29 consists of all of Wabasha County, that portion of Dakota County consisting of the city of Hastings, **the portion of Marshan Township surrounded by the city of Hastings,** and Ravenna Township, and that portion of Goodhue County not included in senate district 28 or 37.

Annotation: Hastings surrounds a portion of

Marshan Township, but Chapter 246 did not include the surrounded area with Hastings in senate district 29. Instead, the area fell with the remaining, leftover portions of Dakota County into senate district 37, with which it is not contiguous. This noncontiguity is eliminated by adding the surrounded portion of the township to senate district 29.

Subd. 2. HOUSE DISTRICTS. Senate district 29 is divided into two house districts as follows:

(a) House district 29A consists of that portion of Dakota County consisting of the city of Hastings, **the portion of Marshan Township surrounded by the city of Hastings,** and Ravenna Township, and that portion of Goodhue County consisting of the city of Red Wing, and Welch Township.

Annotation: Adding the section of Marshan Township into house district 29A preserves the house districts' contiguity.

(b) House district 29B consists of that portion of senate district 29 not included in house district 29A.

Sec. 31. {2.333} THIRTIETH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 30 **includes** that portion of Olmsted County consisting of **Cascade Township, Marion Township, Rochester Township, and the city of Rochester lying within a line described as follows: commencing at the intersection of Country Club Road Northwest**

with the Rochester Township boundary and the boundary of the city of Rochester, easterly along Country Club Road Northwest to County Road 122, southerly along County Road 122 to Historic Drive Southwest, southeasterly along Historic Drive Southwest to County Road 122, southerly along County Road 122 to Salem Road Southwest, southeasterly and northeasterly along Salem Road Southwest to 17th Avenue Southwest, southerly along 17th Avenue Southwest to 16th Street Southwest, easterly along 16th Street Southwest to 11th Avenue Southeast, southerly along 11th Avenue Southeast to Pinewood Road Southeast, easterly along Pinewood Road Southeast to the eastern boundary of the city of Rochester, northerly and easterly along the boundary of the city of Rochester to the intersection of the boundary of the city of Rochester and Marion Street, southeasterly along Marion Street to the boundary of the city of Rochester, southeasterly, northerly, easterly, northerly, and westerly along the boundary of the city of Rochester to the intersection of the boundary of the city of Rochester and Sunrise Avenue Southeast, northerly along Sunrise Avenue Southeast to Rose Drive Southeast, northeasterly along Rose Drive Southeast to Harbor Drive Southeast, southeasterly, easterly, and northerly along Harbor Drive Southeast to the boundary of the city of Rochester, easterly along the boundary of the city of Rochester and Eastwood Road Southeast to 40th Avenue Southeast, northerly along 40th Avenue Southeast to the boundary of the city of Rochester, easterly, northerly,

westerly, northerly, westerly, southerly, westerly, northerly, westerly, northerly along the boundary of the city of Rochester to the intersection of West River Road, northerly along West River Road to the boundary of the city of Rochester, northerly and westerly along the boundary of the city of Rochester to 55th Street Northwest, westerly along 55th Street Northwest to the boundary of the city of Rochester, northerly, westerly, southerly, and westerly along the boundary of the city of Rochester to 55th Street Northwest, westerly along 55th Street Northwest to the boundary of the city of Rochester, northerly, westerly, and southerly along the boundary of the city of Rochester to 55th Avenue Northwest, westerly along 55th Avenue Northwest to the boundary of the city of Rochester, northwesterly along the boundary to 50th Avenue Northwest, southerly along 50th Avenue Northwest to Valley High Road Northwest, easterly along Valley High Road Northwest to the western boundary of the city of Rochester, southeasterly, westerly, and southerly to 19th Street Northwest, westerly along 19th Street Northwest to the boundary of the city of Rochester, southerly, westerly, southerly, easterly, and southerly along the boundary to the point of origin.

Annotation: As constructed in Chapter 246, senate district 30 contained the entire city of Rochester and nothing else. The population of Rochester exceeds the ideal by 5,445 people or 8.34%. If left uncorrected, the district would contribute to a total maximum deviation in excess of the 10% margin typically tolerated in

legislatively drawn redistricting plans. Rochester also surrounds portions of the neighboring townships. By failing to include these portions in the same district as the city, Chapter 246 also created two noncontiguous districts, senate district 31 and house district 31A.

Both plans submitted adequately resolved the problems in senate districts 30 and 31 and house districts 30A, 30B, 31A, and 31B. With slight modification, the plaintiff-intervenors' proposed districts 30, 30A, and 30B combined with the defendant-intervenors' proposed districts 31 and 31A provide the most compact districts and create the lowest overall population deviations. The revised senate district 30 incorporates these changes.

Subd. 2. HOUSE DISTRICTS. Senate district 30 is divided into two house districts as follows:

(a) House district 30A consists of that portion of senate district 30 not included in house district 30B.

(b) House district 30B consists of that portion of senate district 30 lying south and east of a line described as follows: commencing at the intersection of County Road 122 and Country Club Road Northwest, easterly along Country Club Road Northwest to 2nd Street Southwest, easterly along 2nd Street Southwest to the boundary of the city of Rochester, northerly, easterly, and southerly along the boundary of the city of Rochester to 2nd Street Southwest, easterly to the extension of 20th Avenue Southwest, northerly along the extension of 20th

Avenue Southwest and 20th Avenue Southwest to the boundary of the city of Rochester, then easterly, southerly, and easterly along the boundary of the city of Rochester to 2nd Street Northwest, easterly along 2nd Street Northwest to 18th Avenue Northwest, northerly along 18th Avenue Northwest and its extension to U.S. Highway 52, northerly along U.S. Highway 52 to 7th Street Northwest, easterly along 7th Street Northwest to 1st Avenue Northeast, northerly along 1st Avenue Northeast to West Silver Lake Road, northwesterly along West Silver Lake Road to North Broadway Avenue, northeasterly along North Broadway Avenue to 14th Street Northeast, southeasterly along 14th Street Northeast to 3rd Avenue Northeast, northerly along 3rd Avenue Northeast to North Broadway Avenue, northeasterly along North Broadway Avenue to Northern Heights Drive Northeast, southeasterly along Northern Heights Drive Northeast to 13th Avenue Northeast, northerly along 13th Avenue Northeast and its extension to the northern boundary of Cascade Township within senate district 30, easterly along the northern boundary of Cascade Township to the eastern boundary of senate district 30.

Annotation: The changes required in senate district 30 also necessitated the drawing of a new boundary between house districts 30A and 30B. The boundary proposed by the plaintiff-intervenors creates districts containing comparably low, population deviations and

was, therefore, adopted.

Sec. 32. {2.343} THIRTY-FIRST DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 31 consists of that portion of Dodge County consisting of Vernon Township, that portion of Fillmore County not included in senate district 32, that portion of Mower County consisting of Bennington Township, Clayton Township, Frankford Township, the city of Grand Meadow, Grand Meadow Township, the city of Le Roy, Le Roy Township, Lodi Township, Pleasant Valley Township, the city of Racine, Racine Township, the city of Sargeant, Sargeant Township, and the city of Taopi, that portion of Olmsted County not included in senate district 28 or 30, and that portion of Winona County consisting of the city of St. Charles, St. Charles Township, and Saratoga Township.

Subd. 2. HOUSE DISTRICTS. Senate district 31 is divided into two house districts as follows:

(a) House district 31A consists of that portion of senate district 31 not included in house district 31B.

(b) House district 31B consists of those portions of Fillmore, Mower, and Winona Counties in senate district 31, and that portion of Olmsted County consisting of the city of Chatfield, the city of Dover, Dover Township, Elmira Township, the city of Eyota, Eyota Township, Orion Township, Quincy Township, and Viola Township.

Sec. 33. {2.353} THIRTY-SECOND DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 32 consists of all of Houston County, that portion of Fillmore County consisting of Norway Township, the city of Peterson, the city of Rushford, and the city of Rushford Village, and that portion of Winona County not included in senate district 31.

Subd. 2. HOUSE DISTRICTS. Senate district 32 is divided into two house districts as follows:

(a) House district 32A consists of that portion of Winona County consisting of the city of Elba, Elba Township, the city of Goodview, the city of Minneiska City, the city of Minnesota City, Mount Vernon Township, the city of Rollingstone, Rollingstone Township, Whitewater Township, the city of Winona, and Winona Township.

(b) House district 32B consists of that portion of senate district 32 not included in house district 32A.

Sec. 34. {2.363} THIRTY-THIRD DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 33 consists of that portion of Hennepin County consisting of Rogers, Corcoran, Hassan, Dayton, and Maple Grove, that portion of the city of Champlin not included in senate district 48, and that portion of the city of Plymouth lying east and north of the line described as follows: commencing at the intersection of the northern boundary of the city of Plymouth and Interstate Highway 494, southerly along Interstate Highway 494 to County Road 47 easterly along County Road 47 to Pineview Lane North, southerly

along Pineview Lane North to the Soo Line railroad tracks, easterly along the Soo Line railroad tracks to Larch Lane North, southerly along Larch Lane North to Rockford Road, easterly along Rockford Road to Zachary Lane North, southerly along Zachary Lane North to 36th Avenue North, easterly along 36th Avenue North to the eastern boundary of the city of Plymouth, and that portion of Wright County consisting of the city of Dayton.

Annotation: To avoid possible confusion and to incorporate the nomenclature currently used to denote the various types of highways, County Road 47 replaces Highway 47. The Wright County portion of Dayton that would otherwise be a noncontiguous part of senate district 20 is specifically included in this district.

Subd. 2. HOUSE DISTRICTS. Senate district 33 is divided into two house districts as follows:

(a) House district 33A consists of that portion of senate district 33 not included in house district 33B.

(b) House district 33B consists of that portion of the city of Plymouth in senate district 33 and that portion of the city of Maple Grove lying south and east of a line described as follows: commencing at the intersection of the eastern boundary of the city of Maple Grove with 101st Avenue North, westerly along 101st Avenue North to Zachary Lane, southerly along Zachary Lane to the NSP power line south of 97th Avenue North, westerly along the NSP power line to the

extension of Xenium Lane, southerly along the extension of Xenium Lane and Xenium Lane to County Road 30, westerly along County Road 30 to Interstate Highway 94, southerly along Interstate Highway 94 to 85th Avenue North, westerly along 85th Avenue North to **the creek north of Fish Lake, southerly along the creek to** Fish Lake, southerly along the western shore of Fish Lake to **Sunnyslope** Lane, southerly along **Sunnyslope** Lane to Timbercrest Drive, easterly along Timbercrest Drive to Zinnia, northerly along Zinnia to 73rd Avenue North, easterly along 73rd Avenue North **and its extension** to Interstate Highway 494, southerly along Interstate Highway 494 to the southern boundary of the city of Maple Grove.

Annotation: The portion of Maple Grove to be included in house district 33B should begin at the boundary of Maple Grove not Plymouth, as Chapter 246 mistakenly provides. Along the same boundary, Chapter 246 refers to 97th Street North and its extension; to conform with the census block data, the line must follow the NSP power line easterly to the Xenium Lane extension. Finally, the extensions near Fish Lake and Interstate Highway 494 are required to conform the boundary to Mn/DOT and census maps. These extensions do not alter the basic contour of the Chapter 246 boundary.

Sec. 35. {2.373} THIRTY-FOURTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 34 consists of that portion of Hennepin County not

included in any other senate district, and that portion of Wright County consisting of the city of Delano, Franklin Township, **the city of Hanover,** the city of Rockford, and Rockford Township.

Annotation: Chapter 246 placed the Hennepin County portion of Hanover in senate district 34. It did not so include the Wright County portion of the city, leaving this section of Hanover with all remaining, leftover portions of Wright County in senate district 20, with which it is not contiguous. Because half of the city was already contained in senate district 34, and the entire city is surrounded by area assigned to this district, we modified Chapter 246 to include this portion of Wright County in senate district 34.

Subd. 2. HOUSE DISTRICTS. Senate district 34 is divided into two house districts as follows:

(a) House district 34A consists of **the portion of Wright County included in senate district 34 and** that portion of Hennepin County consisting of the city of Hanover, the city of Greenfield, the city of Independence, the city of Minnetrista, the city of Mound, **the city of Rockford,** the city of Spring Park, and the city of St. Bonifacius.

(b) House district 34B consists of that portion of senate district 34 not included in house district 34A.

Annotation: Chapter 246 did not include the city of Rockford or the portions of Wright County contained in senate district 34 in house district 34A, leaving these

areas as noncontiguous portions of house district 34B and creating large population deviations. The corrections resolve these constitutional defects and create districts that mirror those illustrated in the legislature's metro area map of Chapter 246.

Sec. 36. {2.383} THIRTY-FIFTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 35 consists of that portion of Carver County not included in senate district 20 or 43, that portion of Le Sueur County consisting of Derrynane Township, Sharon Township, and Tyrone Township, that portion of Scott County not included in senate district **25,** 37, or 41, and that portion of Sibley County consisting of Faxon Township.

Annotation: A reference to senate district 25 was added to eliminate the double assignment of the Scott County portion of New Prague. Placing this section of the city in senate district 25 not only prevents an unnecessary splitting of the city but also minimizes population deviations that would otherwise exceed constitutional limits.

Subd. 2. HOUSE DISTRICTS. Senate district 35 is divided into two house districts as follows:

(a) House district 35A consists of that portion of senate district 35 not included in house district 35B.

(b) House District 35B consists of that portion of Scott County consisting of Jackson Township, the city of Jordan, Louisville Township, the city of

Prior Lake Sandcreek Township, the city of Shakopee, and Spring Lake Township.

Sec. 37. {2.393} THIRTY-SIXTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 36 consists of that portion of Dakota County consisting of that portion of the city of Burnsville lying south of a line described as follows: commencing at the intersection of the western boundary of Dakota County and County Road 42, easterly along County Road 42 to Burnsville Parkway, northeasterly along Burnsville Parkway to West 136th Street, easterly along West 136th Street to County Road 5, southerly along County Road 5 to West 138th Street, southeasterly along West 138th Street **and James Avenue** to 140th Street, **easterly** along 140th Street to McAndrews Road, easterly along McAndrews Road to Nicollet Avenue, northerly along Nicollet Avenue to State Highway 13, northeasterly along State Highway 13 to Cliff Road, easterly along Cliff Road to the eastern boundary of the city of Burnsville, that portion of the city of Apple Valley lying south of a line described as follows: commencing at the intersection of the northern boundary of the city of Apple Valley with State Highway 77, southerly and then easterly along State Highway 77 to Johnny Cake Ridge Road, northerly along Johnny Cake Ridge Road to the extension of Eveleth Path, easterly and northeasterly along Eveleth Path and its extension to 126th Street West, easterly and southeasterly along 126th Street West and Diamond Path to the eastern boundary of the city of Apple Valley, and that portion of the city of Lakeville north and east of a line described as follows: commencing at the intersection of the northern

boundary of the city of Lakeville and Flagstaff Avenue, southerly along Flagstaff Avenue to Dodd Boulevard, northeasterly along Dodd Boulevard to the northern boundary of the city of Lakeville.

Annotation: Chapter 246 omitted a reference to James Avenue, into which West 138th Street turns before intersecting with 140th Street. The law also erroneously described the direction to be taken along 140th Street to McAndrews Road as "southwesterly." The necessary changes have been made.

Subd. 2. HOUSE DISTRICTS. Senate district 36 is divided into two house districts as follows:

(a) House district 36A consists of those portions of the cities of Apple Valley and Lakeville contained in senate
district 36.

(b) House district 36B consists of that portion of senate district 36 not included in house district 36A.

Sec. 38. {2.403} THIRTY-SEVENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 37 consists of that portion of Scott County consisting of Credit River Township, Cedar Lake Township, New Market Township, the city of New Market, and the city of Elko, that portion of Dakota County not included in senate district 25, 29, 36, 38, 39, **or 41,** and that portion of Goodhue County consisting of Cannon Falls Township, Leon Township, Stanton Township, and Warsaw Township, and the cities of

Cannon Falls and Dennison.

Annotation: Chapter 246 assigned to senate district 37 the portions of Dakota County not included in senate districts 25, 29, 36, 38, or 39. However, because senate district 41 was assigned a portion of Burnsville, which is also in Dakota County, this part of the city ends up in both districts. The legislature's intent to divide Burnsville among senate districts 36, 38, and 41 appears clear from a reading of the description of those districts. The double assignment problem is corrected simply by adding the reference to senate district 41.

Subd. 2. HOUSE DISTRICTS. Senate district 37 is divided into two house districts as follows:

(a) House district 37A consists of that portion of house district 37 not included in house district 37B.

(b) House district 37B consists of that portion of senate district 37 consisting of that portion of Scott County located in senate district 37 and that portion of Dakota County consisting of that portion of the city of Lakeville included in senate district 37 and that portion of the city of Farmington lying north of a line described as follows: commencing at the intersection of the eastern boundary of the city of Farmington **and the north branch of the Vermillion River, southwesterly along the north branch of the Vermillion River** to Akin Road, northwesterly along Akin Road to 195th Street West, westerly along 195th Street West to Flagstaff Avenue, southerly along Flagstaff Avenue to 200th Street

West, westerly along 200th Street West to the western boundary of the city of Farmington.

Annotation: Although unambiguous, the house district boundary drawn in Chapter 246 splits a populated census block by taking an extension of the boundary of Farmington westerly to Akin Road. To conform the boundary with the census information, it has been shifted slightly to the Vermillion River. The relatively minor change permits accurate calculation of each district's population.

Sec. 39. {2.413} THIRTY-EIGHTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 38 consists of that portion of Dakota County consisting of the cities of Eagan, Lilydale, and Mendota, that portion of the city of Apple Valley not included in senate district 36, that portion of the city of Burnsville north and east of a line described as follows: commencing at the intersection of the northern boundary of Dakota County and Interstate Highway 35W, southerly along Interstate Highway 35W to the Chicago Northwestern Transportation Company railroad tracks, easterly along the Chicago and Northwestern Transportation Company railroad tracks to Cliff Road, southerly and easterly along Cliff Road to Nicollet Avenue, southerly along Nicollet Avenue to State Highway 13, northeasterly along State Highway 13 to Cliff Road, easterly along Cliff Road to the eastern boundary of the city of Burnsville, and that portion of the city of Mendota Heights lying west and south of a line described as follows: commencing at the intersection of the northern boundary of the city of Mendota Heights and State Highway 13,

southwesterly along State Highway 13 to Wachtler Avenue, southerly along Wachtler Avenue to Wentworth Avenue, easterly along Wentworth Avenue to Dodd Road, southwesterly along Dodd Road to Marie Avenue, easterly along Marie Avenue to the eastern boundary of the city of Mendota Heights.

Subd. 2. HOUSE DISTRICTS. Senate district 38 is divided into two house districts as follows:

(a) House district 38A consists of that portion of senate district 38 not included in house district 38B.

(b) House district 38B consists of that portion of the city of Apple Valley in senate district 38, that portion of the city of Burnsville east of a line described as follows: Commencing at the intersection of State Highway 13 and the eastern boundary of the city of Burnsville, southwesterly along State Highway 13 to Cliff Road, easterly along Cliff Road to the eastern boundary of the city of Burnsville, and that portion of the city of Eagan lying south of a line described as follows: commencing at the intersection of the western boundary of the city of Eagan and Diffley Road, easterly along Diffley Road to Lexington Avenue, northerly along Lexington Avenue to Yankee Doodle Road, easterly along Yankee Doodle Road to **Dodd Road,** southeasterly along **Dodd Road** to the eastern boundary of the city of Eagan.

Annotation: The Soo Line railroad tracks are parallel to Dodd Road. Because the census information uses only Dodd Road as a block boundary, however,

substituting Dodd Road enables accurate calculation of the district populations.

Sec. 40. {2.423} THIRTY-NINTH DISTRICT.

Subivision 1. SENATE DISTRICT. Senate district 39 consists of that portion of Dakota County consisting of the cities of Inver Grove Heights, South St. Paul, Sunfish Lake, West St. Paul, and that portion of the city of Mendota Heights not included in senate district 38.

Subd. 2. HOUSE DISTRICTS. Senate district 39 is divided into two house districts as follows:

(a) House district 39A consists of that portion of senate district 39 consisting of the cities of West St. Paul and Sunfish Lake, that portion of the city of Mendota Heights included in senate district 39, that portion of the city of South St. Paul lying north and west of a line described as follows: commencing at the intersection of the southern boundary of the city of South St. Paul and 18th Avenue South, northerly along 18th Avenue South to Southview Boulevard, easterly along Southview Boulevard to 17th Avenue South, northerly along 17th Avenue South to 4th Street North, easterly along 4th Street North to 14th Avenue North, northerly along 14th Avenue North to Wentworth Avenue, easterly along Wentworth Avenue and its extension to the Mississippi River, and that portion of the city of Inver Grove Heights lying west and north of a line described as follows: commencing at the

intersection of the northern boundary of the city of Inver Grove Heights and Babcock Trail, southerly along Babcock Trail to Upper 55th Street, westerly along Upper 55th Street to the western boundary of the city of Inver Grove Heights.

(b) House district 39B consists of that portion of Senate district 39 not included in house district 39A.

Sec. 41. {2.433} FORTIETH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 40 consists of that portion of the city of Bloomington not included in senate district 41, and that portion of the city of Richfield not included in senate district 63.

Subd. 2. HOUSE DISTRICTS. Senate district 40 is divided into two house districts as follows:

(a) House district 40A consists of that portion of senate district 40 lying north and east of a line described as follows: commencing at the intersection of the northern boundary of the city of Bloomington and **Xerxes Avenue, easterly along the northern boundary of the city of Bloomington to** Interstate Highway 35W, southerly along Interstate Highway 35W to the Soo Line railroad tracks, northeasterly along the Soo Line railroad tracks to **Lyndale Avenue South, southerly along Lyndale Avenue South to** 95th Street, easterly along 95th Street to **3rd Avenue South, northerly along 3rd**

Avenue South to East 95th Street, easterly along East 95th Street to Clinton Avenue South, southerly along Clinton Avenue South to East 96th Street, easterly along 96th Street to Chicago Avenue South, northerly along Chicago Avenue South to 94th Street, easterly along 94th Street to **Riverview Avenue, southerly along Riverview Avenue to** Old Shakopee Road, northeasterly along Old Shakopee Road to Old Cedar Avenue, southeasterly along Old Cedar Avenue to the Minnesota River.

(b) House district 40B consists of that portion of senate district 40 not included in house district 40A.

Annotation: The house districts' boundary in Chapter 246 contained a few ambiguous gaps which needed to be filled. The reference to Lyndale Avenue South connects the Soo Line railroad tracks with 95th Street. A slight shift was also necessary because 95th Street does not intersect with Chicago Avenue South. Because both house districts contain fewer people than an ideal district, too large a change could have caused one or the other to exceed the 2% maximum deviation adopted for court-modified districts. The least obtrusive shift possible, is moving the boundary south along Clinton Avenue South to 96th Street. The modified line equalizes the population deviations of the districts, both of which are approximately 1% below the ideal.

To clarify that the senate district 40 portion of Richfield is contained in house district 40A, the starting point of the boundary was also moved to the western corner of Richfield and assigned the portion of senate

district 40 lying north of the boundary in house district 40A.

Sec. 42. {2.443} FORTY-FIRST DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 41 consists of that portion of Dakota County consisting of that portion of the city of Burnsville not included in senate district 36 or 38, that portion of Scott County consisting of the city of Savage **and the area lying within a line described as follows: commencing at the intersection of County Road 18 and the eastern boundary of the city of Shakopee, southwesterly along County Road 18 to State Highway 101, southeasterly along State Highway 101 to the eastern boundary of the city of Shakopee**, and that portion of Hennepin County consisting of that portion of the city of Bloomington lying west of a line described as follows: commencing at the intersection of the southern boundary of the city of Bloomington with **an** extension of **Irwin** Avenue, north**erly along** the extension **and Irwin** Avenue to Overlook Drive, west on Overlook Drive to Normandale Boulevard, north on Normandale Boulevard to Old Shakopee Road, easterly along Old Shakopee Road to Kell Avenue, southerly along Kell Avenue to 108th Street, easterly along 108th Street to Xerxes Avenue South, northerly along Xerxes Avenue South to Old Shakopee Road, northeasterly along Old Shakopee Road to Nine Mile Creek, northerly and westerly along Nine Mile Creek to West 90th Street, southwesterly along West 90th Street to Poplar Bridge Road, easterly along Poplar Bridge Road to Kingsdale Drive, southwesterly along Kingsdale Drive to Poplar Bridge Road, southwesterly along Poplar Bridge Road

to Normandale Boulevard, northerly along Normandale Boulevard to the northern boundary of the city of Bloomington, and that portion of the city of Eden Prairie not included in senate district 42 or 43.

Annotation: Senate district 41 is divided by the Minnesota River, and the only connection between the north and south halves of the district is the Bloomington Ferry Bridge. Although this bridge crosses the river within the senate district, Bloomington Ferry Road proceeds beyond the district boundary. No intersecting road exists that permits a resident of the district to remain in the district after crossing the bridge; a motorist must travel outside the district to reach another road enabling access back within the district. Because the district as constructed did not satisfy the contiguity requirement of reasonably unrestricted access, slight modification of the boundary was necessary to allow contiguous travel within the district.

We also substituted Irwin Avenue and its extension for France Avenue because France Avenue does not intersect with Bloomington's southern boundary and extending France to the boundary would split a large, populated census block. The boundary line's "northerly" direction is also clarified.

Subd. 2 HOUSE DISTRICTS. Senate district 41 is divided into two house districts as follows:

(a) House district 41A consists of that portion of senate district 41 lying north of a line described as follows: commencing with the intersection of Purgatory Creek and the western boundary of senate district 41, southeasterly along Purgatory Creek to Pioneer Trail, **southeasterly** along

Pioneer Trail to the Bloomington Ferry Road, southerly along the Bloomington Ferry Road to Old Shakopee Road, easterly along Old Shakopee Road to the eastern boundary of senate district 41.

(b) House district 41B consists of that portion of senate district 41 not included in house district 41A.

Annotation: Pioneer Trail must be taken southeasterly to intersect with the Bloomington Ferry Road. The change simply effectuates the intent apparent from the text read as a whole.

Sec. 43. {2.453} FORTY-SECOND DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 42 consists of that portion of Hennepin County consisting of the city of Edina, **the city of Chanhassen,** and that portion of the city of Eden Prairie not included in senate district 43 and lying west and north of a line described as follows: commencing at the intersection of the southern boundary of Hennepin County with the **NSP power line that extends beyond the end** of Concord Drive, northerly along the **NSP power line** to Riverview Road, westerly along Riverview Road to **Mooer** Lane, northerly along **Mooer** Lane to Silverwood Drive, easterly along Silverwood Drive to Homeward **Hills** Road, northerly along Homeward **Hills** Road to Anderson Lakes Parkway, easterly along Anderson Lakes Parkway to Hidden Oaks Drive, northeasterly along Hidden Oaks Drive and its extension to the southern shore of Anderson Lake,

southerly southeasterly and northeasterly along the southern shore of Anderson Lake to the eastern boundary of the city of Eden Prairie.

Annotation: The senate district boundary in Eden Prairie starts ambiguously; there is no clear extension of Concord Drive to the city's boundary. The reference to the nearby NSP power line conforms the district boundary with the census data. We also corrected the ambiguities arising from obvious typographical errors in the boundary description, substituting Mooer for Noder and Hills for Mills. Other typographical errors that do not affect the clarity of the text were not corrected. Finally, the unpopulated, Hennepin County portion of Chanhassen was added to this district. This change effectuates the intent evident in the legislature's metro area map of Chapter 246 and eliminates the contiguity problem that arises by leaving this district in senate district 34.

Subd. 2. HOUSE DISTRICTS. Senate district 42 is divided into two house districts as follows:

(a) House district 42A consists of that portion of the city of Edina lying north and east of a line described as follows: commencing at the intersection of the western boundary of the city of Edina with State Highway 62, easterly along State Highway 62 to State Highway 100, southerly along State Highway 100 to West 66th Street, easterly along West 66th Street to West Shore Drive, southeasterly along West Shore Drive to Laguna Drive, easterly along Laguna Drive to Wooddale Avenue, southerly along Wooddale Avenue to Dunberry Lane, easterly

along Dunberry Lane to Cornelia Drive, southerly along Cornelia Drive to West 70th Street, easterly along West 70th Street to France Avenue, southerly along France Avenue to the southern boundary of the city of Edina.

(b) House district 42B consists of that portion of senate district 42 not contained in house district 42A.

Sec. 44. {2.463} FORTY-THIRD DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 43 consists of that portion of Carver County consisting of the cities of Chanhassen and Victoria, and that portion of Hennepin County consisting of the city of Deephaven, that portion of the city of Eden Prairie **lying north and west of a line described as follows: commencing at the intersection of the western boundary of the city of Eden Prairie and the Soo Line railroad tracks, northeasterly along the Soo Line railroad tracks to Valley View Road, easterly along Valley View Road to Baker Road, northerly along Baker Road to the northern boundary of the city of Eden Prairie,** the city of Excelsior, the city of Greenwood, that portion of the city of Minnetonka lying south and west of a line described as follows: commencing at the intersection of the southern boundary of the city of Woodland and State Highway 101, southerly along State Highway 101 to Minnetonka Boulevard, easterly along Minnetonka Boulevard to Williston Road, southerly along Williston Road to Lake Street, easterly along Lake Street to **Maple** Lane, southerly along **Maple** Lane to State Highway 7, easterly along State

Highway 7 to Interstate Highway 494, southerly along Interstate Highway 494 to the southern boundary of the city of Minnetonka, the city of Minnetonka Beach, that portion of the city of Orono lying south of the northern **boundary of Spring Park and its extension to the** shore of Lake Minnetonka, the city of Shorewood, the city of Tonka Bay, and the city of Woodland.

Annotation: Chapter 246 divided Eden Prairie among senate districts 41, 42, and 43; however, only senate district 42 described the portion of the city that it contained. The remaining area was intended to be split between senate districts 41 and 43, but no boundary was described. The adopted line, proposed by the legislature, follows the basic contours of the metro area map of Chapter 246 and produces population deviations within the court-adopted, 2% limit.

Chapter 246 erroneously referred to Christy Lane, which does not intersect with State Highway 7. Maple Lane is the nearest through street. As clarification, we also modified the description of the line bordering the portion of Orono to be included in senate district 43. Finally, we deleted a reference to Wayzata, which Chapter 246 had included in senate districts 43 and 45. Placing the city in senate district 45 minimizes the population deviations of the affected house and senate districts, all of which fall within the 2%, outer limit.

Subd. 2. HOUSE DISTRICTS. Senate district 43 is divided into two house districts as follows:

(a) House district 43A consists of that portion of senate district 43 **lying in Carver County, and that portion of senate district 43 lying in**

Hennepin County consisting of the cities of Eden Prairie, Minnetonka Beach, Orono, and Tonka Bay, and that portion of the city of Shorewood lying west **of a line** described as follows: commencing at the intersection of the southern boundary of Hennepin County and First Avenue, northerly along First Avenue to Smithtown Road, westerly along Smithtown Road to Eureka Road, northerly along Eureka Road to Birch Bluff Road, easterly along Birch Bluff Road to the western boundary of the city of Tonka Bay.

(b) House district 43B consists of that portion of senate district 43 not included in house district 43A.

Annotation: By assigning only the Hennepin County cities contained in senate district 43 to house district 43A, Chapter 246 isolated the Eden Prairie portion of the house district from the rest of the district and created population deviations of over 40%. The metro area map of Chapter 246 indicates an intent to include the Carver County portions of senate district 43 in house district 43A. This change eliminates the districts' geographic and population problems. We also clarified that the portion of Shorewood contained in district 43A lies west of a line already described in the text.

Sec. 45. {2.473} FORTY-FOURTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 44 consists of that portion of Hennepin County consisting of the cities of Hopkins and St. Louis Park, and that portion of the city of Minnetonka lying south and east of a line described as follows: commencing at the

intersection of Interstate Highway 494 and the southern boundary of the city of Minnetonka, northerly along Interstate Highway 494 to Excelsior Boulevard, northeasterly and easterly along Excelsior Boulevard to the eastern boundary of the city of Minnetonka.

Subd. 2. HOUSE DISTRICTS. Senate district 44 is divided into two house districts as follows:

(a) House district 44B consists of that portion of senate district 44 in the city of St. Louis Park lying east of a line described as follows: commencing at the intersection of the northern boundary of the city of St. Louis Park and Flag Avenue, southerly along Flag Avenue to Westmoreland Lane, easterly along Westmoreland Lane **and** Franklin Avenue and its extension to Louisiana Avenue, southerly along Louisiana Avenue to the Burlington Northern railroad tracks, southwesterly along the Burlington Northern railroad tracks to Virginia Avenue, southerly along Virginia Avenue to West 28th Street, easterly along West 28th Street to Texas Avenue, southerly along Texas Avenue to the southern boundary of the city of St. Louis Park.

Annotation: The minor change clarifies that the extension to Louisiana Avenue is an extension of Franklin Avenue.

(b) House district 44A consists of that portion of senate district 44 not included in house district 44B.

Sec. 46. {2.483} FORTY-FIFTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 45 consists of that portion of Hennepin County consisting of the city of Wayzata, that portion of the city of Golden Valley not included in senate district 46, the city of Medicine Lake, that portion of the city of Minnetonka not included in senate district 43 or 44, and that portion of the city of Plymouth lying south and east of a line described as follows: commencing at the intersection of the western boundary of the city of Plymouth with County Road 6, easterly along County Road 6 to Interstate Highway 494, northerly along Interstate Highway 494 to Rockford Road, easterly along Rockford Road to Zachary Lane, southerly along Zachary Lane to 36th Avenue North, easterly along 36th Avenue North to the eastern boundary of the city of Plymouth.

Subd. 2. HOUSE DISTRICTS. Senate district 45 is divided into two house districts as follows:

(a) House district 45A consists of that portion of senate district 45 consisting of **the city of Wayzata,** that portion of the city of Minnetonka located in senate district 45 and that portion of the city of Plymouth located in senate district 45 lying west of Interstate Highway 494.

(b) House district 45B consists of that portion of senate district 45 not included in house district 45A.

Annotation: Although Chapter 246 placed Wayzata in senate district 45, it did not include the city in house

district 45A. The reference added is necessary to preserve the districts' contiguity and to minimize their population deviations.

Sec. 47. {2.493} FORTY-SIXTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 46 consists of that portion of Hennepin County consisting of the cities of Crystal, New Hope, and Robbinsdale, that portion of the city of Golden Valley lying north and **west** of a line described as follows: commencing at the intersection of the western border of the city of Golden Valley and the extension of Earl Street, easterly along **the extension and** Earl Street to Independence Avenue North, northerly along Independence Avenue North to Duluth Street, easterly along Duluth Street to Winnetka Avenue, and northerly along Winnetka Avenue to the northern boundary of the city of Golden Valley, and that portion of the city of Brooklyn Center lying south of a line described as follows: commencing at the intersection of the western boundary of the city of Brooklyn Center and 58th Avenue North, easterly along 58th Avenue North to Shingle Creek, southerly along Shingle Creek to the southern boundary of the city of Brooklyn Center.

Annotation: Chapter 246 erroneously described the portion of Golden Valley to be included in senate district 46 as the area lying north and "east" of the boundary drawn. Because the boundary forms the southern and eastern borders of a rectangular area, however, the description must read north and "west." The boundary must also travel along the extension of Earl Street already referred to in Chapter 246 before reaching Earl

Street itself and Independence Avenue.

Subd. 2. HOUSE DISTRICTS. Senate district 46 is divided into two house districts as follows:

(a) House district 46A consists of that portion of senate district 46 lying west of a line described as follows: commencing at the intersection of the northern boundary of the city of Crystal with **County Road 81**, southeasterly along **County Road 81** to the northern boundary of the city of Robbinsdale, westerly, southerly, and westerly along the northern and western boundaries of the city of Robbinsdale to 42nd Avenue North, westerly along 42nd Avenue North to the Soo Line Railroad Company tracks, southerly along the Soo Line Railroad Company tracks to the western boundary of the city of Crystal, westerly, **southerly, westerly, northerly, westerly, southerly, westerly, southerly, easterly, northerly, easterly,** and southerly along the western boundary of the city of Crystal to the southern boundary of senate district 46.

(b) House district 46B consists of that portion of senate district 46 not included in house district 46A.

Annotation: The legislature proposed a specific and substantial change in the house districts' boundary to include all of New Hope in house district 46A. Although this change would prevent a city split, it would slightly increase the districts' population deviations. Moreover, the text of Chapter 246 is clear. Because court-

modification is justified only to clarify ambiguous language or to correct statutory or constitutional defects, we rejected this proposal. We did change U.S. Highway 52 to its new name, County Road 81, and, as requested, clarified the directions to be taken to the southern boundary of the senate district.

Sec. 48. {2.503} FORTY-SEVENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 47 consists of that portion of Hennepin County consisting of that portion of the city of Brooklyn Center not included in senate district 46 and that portion of the city of Brooklyn Park lying south and west of a line described as follows: commencing at the intersection of the western boundary of the city of Brooklyn Park and the southern boundary of the city of Osseo, easterly along the southern boundary of the city of Osseo to the Burlington Northern railroad tracks, southeasterly along the Burlington Northern railroad tracks to 85th Avenue North, easterly along 85th Avenue North to Xerxes Avenue, southerly along Xerxes Avenue to Pearson Parkway, southeasterly along Pearson Parkway to Newton Avenue, southerly along Newton Avenue to the southern boundary of the city of Brooklyn Park.

Annotation: By following 81st Avenue North and its extension from Xerxes Avenue to Pearson Parkway, Chapter 246 unnecessarily split four populated census blocks. Eliminating the references to 81st Avenue and its extension closely approximates the line in Chapter 246 while following census block boundaries.

Subd. 2. HOUSE DISTRICTS. Senate district 47 is divided into two house districts as follows:

(a) House district 47A consists of that portion of senate district 47 lying west of a line described as follows: commencing at the intersection of the northern boundary of senate district 47 and Noble Avenue, southerly along Noble Avenue to 83rd Avenue North, easterly along 83rd Avenue North to 82nd Avenue North, southerly and westerly along 82nd Avenue North to June Avenue, southerly along June Avenue **and Brookdale Drive** to 75th Avenue North, westerly along 75th Avenue North to Lee Avenue, southerly and westerly along Lee Avenue to Major Avenue, southerly and westerly along Major Avenue to Noble Avenue, southerly along Noble Avenue to the southern boundary of senate district 47.

(b) House district 47B consists of that portion of senate district 47 not located in house district 47A.

Annotation: June Avenue is interrupted by Brookdale Drive for approximately one block before continuing on to 75th Avenue North. The addition merely clarifies the boundary.

Sec. 49. {2.513} FORTY-EIGHTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 48 consists of that portion of Anoka County consisting of that portion of the city of Coon Rapids not included in senate district 49, the city of Spring Lake Park, that portion of the city of Blaine south and west of a line

described as follows: commencing at the intersection of the western boundary of the city of Blaine with the right-of-way of State Highway 610, southeasterly along the right-of-way of State Highway 610 to Central Avenue Northeast, southerly along Central Avenue Northeast to 89th Avenue, easterly along 89th Avenue Northeast **to State Highway 65, northerly along State Highway 65 to an extension of 91st Avenue Northeast, easterly along the extension and 91st Avenue Northeast to Isanti Street Northeast, southerly along Isanti Street Northeast to Radisson Road Northeast, southwesterly along Radisson Road Northeast** to Hastings Street Northeast, southerly along Hastings Street Northeast **and its extension** to the southern boundary of the city of Blaine, and that portion of the city of Fridley lying north of a line described as follows: commencing at the intersection of the Mississippi River with Rice Creek, easterly along Rice Creek to East River Road, southeasterly along East River Road to Mississippi Street, easterly along Mississippi Street to Seventh Street Northeast, southerly along Seventh Street Northeast to 61st Avenue **Northeast**, easterly along 61st Avenue **Northeast** to West Moore Lake Drive, southeasterly along West Moore Lake Drive to State Highway 65, southerly along State Highway 65 to an extension of Lynde Drive, easterly along the extension of Lynde Drive and Lynde Drive to Regis Street, northerly along Regis Street to Hathaway Lane, easterly along Hathaway Lane **and its extension** to Matterhorn Drive, northerly along Matterhorn Drive to Gardena Avenue, easterly along Gardena Avenue to the eastern boundary of the city of Fridley, that portion of Ramsey

County consisting of the city of Spring Lake Park, and that portion of Hennepin County consisting of that portion of the city of Brooklyn Park not included in senate district 47, the city of Osseo, and that portion of the city of Champlin lying east of a line described as follows: commencing at the intersection of the southern boundary of the city of Champlin with U.S. Highway 169, northerly along U.S. Highway 169 to Hayden Lake Road, westerly along Hayden Lake Road to the north-south NSP power line west of Vera Street, northerly along the north-south NSP power line to French Lake Road, northeasterly along French Lake Road to Dayton Road, southeasterly along Dayton Road and its extension to U.S. Highway 169, northerly along U.S. Highway 169 to the Mississippi River.

Annotation: The Chapter 246 boundary in Blaine follows census boundaries, but those boundaries conflict with Mn/DOT annotations. We altered the line slightly to conform it with both Mn/DOT and census data. Although we did not add the directional portion of street names where Chapter 246 failed to do so, recognizable errors in street names were corrected. As an example, the misnamed 61st Avenue "East" was changed to "Northeast" to avoid possible confusion. We also added an extension to Hathaway Lane to bridge the gap in Chapter 246 between Hathaway and Matterhorn Drive, in conformity with the census block boundary. "United States" Highway 169 was abbreviated to the more accurate "U.S." Highway 169 designation. Dayton River Road changes to Dayton Road inside the city of Champlin and also requires an extension to U.S. Highway 169, filling a gap in the boundary drawn by Chapter 246.

Subd. 2. HOUSE DISTRICTS. Senate district 48 is divided into two house districts as follows:

(a) House district 48A consists of that portion of senate district 48 not included in house district 48B.

(b) House district 48B consists of that portion of senate district 48 located in Anoka and Ramsey Counties.

Sec. 50. {2.523} FORTY-NINTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 49 consists of that portion of Anoka County consisting of

the city of Anoka and that portion of the city of Coon Rapids lying north of a line described as follows: commencing at the intersection of the Mississippi River with Coon Creek, northerly along Coon Creek to the Burlington Northern railroad tracks, southeasterly along the Burlington Northern railroad tracks to Coon Rapids Boulevard **Extension**, easterly along Coon Rapids Boulevard **Extension** to the north-south Burlington Northern railroad tracks, northerly along the north-south Burlington Northern railroad tracks to Egret Boulevard, easterly along Egret Boulevard to U.S. Highway 10, southeasterly along U.S. Highway 10 to **Pleasure Creek, and northerly along Pleasure Creek** to the eastern boundary of the city of Coon Rapids.

Annotation: Coon Rapids Boulevard does not intersect with the north-south Burlington Northern railroad tracks but Coon Rapids Boulevard "Extension" does. We also added "U.S." to Highway 10 and substituted Pleasure Creek, which follows census lines, for the extension of 94th Avenue, which cut through a populated census block.

Subd. 2. HOUSE DISTRICTS. Senate district 49 is divided into two house districts as follows:

(a) House district 49A consists of that portion of senate district 49 lying north and west of a line described as follows: commencing at the intersection of the Mississippi River with the southern boundary of the campus of Anoka Ramsey State Community College, easterly along the southern boundary of the campus of Anoka

Ramsey State Community College to Mississippi Boulevard, northerly along Mississippi Boulevard to Coon Rapids Boulevard, northwesterly along Coon Rapids Boulevard to Round Lake Boulevard, northerly along Round Lake Boulevard to 119th Avenue Northwest, easterly along 119th Avenue Northwest **to** an extension of **Lily** Street **Northwest**, northerly along the extension of **Lily** Street **Northwest** to the Burlington Northern railroad tracks, northwesterly along the Burlington Northern railroad tracks to Main Street, easterly along Main Street to **U.S.** Highway 10, southeasterly along **U.S.** Highway 10 to Hanson Boulevard, northeasterly along Hanson Boulevard to North Dale Boulevard, easterly along North Dale Boulevard to **Coon** Creek, northeasterly and southeasterly along **Coon Creek and** Sand Creek to the eastern boundary of the city of Coon Rapids.

(b) House district 49B consists of that portion of senate district 49 not located in house district 49A.

Annotation: There is no Magnolia Street in the area of Coon Rapids described in Chapter 246. There is a Marigold Street, but the census line follows an extension of Lily Street Northwest to the railroad tracks. We followed the census line. We also used the official annotation for "U.S." Highway 10 and, because Mn/DOT maps indicate that North Dale Boulevard crosses Coon Creek just before Coon Creek runs into Sand Creek, added a reference to the former.

Sec. 51. {2.533} FIFTIETH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 50 consists of that portion of Anoka County north of a line described as follows: commencing at the intersection of the Mississippi River with the northwestern boundary of the city of Anoka, northerly and easterly along the northern boundary of the city of Anoka to the northern boundary of the city of Coon Rapids, easterly along the northern boundary of the city of Coon Rapids to University Avenue Northeast, southerly along University Avenue Northeast to Main Street, easterly along Main Street to Jefferson Street Northeast, northerly along Jefferson Street Northeast to **128th Avenue Northeast, easterly along 128th Avenue Northeast to Monroe Street Northeast, southerly along Monroe Street Southeast to 128th Avenue Northeast, easterly along 128th Avenue Northeast to Van Buren Street Northeast, southerly along Van Buren Street Northeast to 127th Lane Northeast, easterly along 127th Lane Northeast to Polk Street Northeast, northerly along Polk Street Northeast to 128th Avenue Northeast, easterly along 128th Avenue Northeast to Taylor Street Northeast, southerly along Taylor Street Northeast to 127th Avenue Northeast, easterly along 127th Avenue Northeast to Buchanan Street Northeast, northerly along Buchanan Street Northeast to 127th Lane Northeast, easterly along 127th Lane Northeast to Central Avenue Service Road, northerly along Central Avenue Service Road to 129th Avenue Northeast, easterly along 129th Avenue Northeast to** Central Avenue Northeast, northerly along Central Avenue Northeast to the

northern boundary of the city of Blaine, easterly along the northern boundary of the city of Blaine and the northern boundary of the city of Lino Lakes to the eastern boundary of Anoka County.

Annotation: The boundary of senate district 50 in Chapter 246 is impossible to follow after turning onto Madison Street, its ambiguities resulting in part from the census bureau's loose transcription of this area's geography, which is dominated by cul-de-sacs and dead-end streets. The substituted description begins at Jefferson Street Northeast and picks up the Chapter 246 boundary again at Central Avenue Northeast. The line deviates somewhat from the original but does follow streets that are easily recognizable in both Mn/DOT and census maps, while minimizing the population deviations of senate districts 50 and 51 and house districts 50A and 51A.

Subd. 2. HOUSE DISTRICTS. Senate district 50 is divided into two house districts as follows:

(a) House district 50A consists of that portion of senate district 50 lying north of a line described as follows: commencing at the intersection of the **western** boundary of Anoka County with the northern boundary of the city of **Ramsey**, easterly along the northern boundary of the city of **Ramsey** and the northern boundar**ies** of the citi**es** of **Andover and** Ham Lake to Central Avenue Northeast, southerly along Central Avenue Northeast to the northern boundary of the city of Blaine, easterly along the northern boundary of the city of Blaine and the northern

boundary of the city of Lino Lakes to the eastern boundary of Anoka County.

(b) House district 50B consists of that portion of senate district 50 not included in house district 50A.

Annotation: The Chapter 246 boundary for these districts contains two mistakes. First, it starts at the "eastern" boundary of Anoka County; however, because the line purports to travel along the northern boundaries of Andover and Ham Lake, and these cities lie west of the county's eastern boundary, the description should begin at the western boundary of Anoka County. Second, while the line should travel easterly along the boundary of Andover, it cannot begin there because Andover lies in the middle of Anoka county. The boundary line should begin at the intersection of the northern boundary of the city of Ramsey and the western boundary of Anoka County. The metro area map of Chapter 246 supports these changes.

Sec. 52. {2.543} FIFTY-FIRST DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 51 consists of that portion of Anoka County consisting of all of the cities of Centerville, Lexington, and Lino Lakes, and that portion of the city of Blaine not included in senate district 48, 50, or 53, and that portion of Washington County north of a line described as follows: commencing at the intersection of the western boundary of the city of Hugo with the southern boundary of the city of Hugo, easterly along the southern boundary of the city of Hugo to Goodview Avenue, **northeasterly and** northerly along Goodview

Avenue to 137th Street North, easterly along 137th Street North to Homestead Avenue North, northerly along Homestead Avenue North to 140th Street North, easterly along 140th Street North to the eastern boundary of the city of Hugo, southerly along the eastern boundary of the city of Hugo to the southern boundary of May Township, easterly along the southern boundary of May Township to the eastern boundary of Washington County.

Annotation: The addition of "northeasterly" accounts for the short distance for which Goodview Avenue travels in that direction after intersecting with the Hugo boundary and before the street turns due north.

Subd. 2. HOUSE DISTRICTS. Senate district 51 is divided into two house districts as follows:

(a) House district 51A consists of the city of Lexington and that portion of the city of Blaine included in senate district 51.

(b) House district 51B consists of that portion of senate district 51 not included in house district 51A.

Sec. 53. {2.553} FIFTY-SECOND DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 52 consists of that portion of Anoka County consisting of the cities of Columbia Heights and Hilltop and that portion of the city of Fridley not included in senate district 48, and that portion of Ramsey County consisting of the cities of Blaine, Mounds View, and New Brighton.

Annotation: The unpopulated, Ramsey County portion of Blaine was not assigned by Chapter 246 to any district. Although this area could be assigned to any of three districts without affecting contiguity or population distribution, placing it in senate district 52 creates the most compact district and complies with the legislature's intent evident in the metro area map of Chapter 246.

Subd. 2. HOUSE DISTRICTS. Senate district 52 is divided into two house districts as follows:

(a) House district 52A consists of that portion of senate district 52 not included in house district 52B.

(b) House district 52B consists of **that portion of Ramsey County consisting of** the **cities** of **Blaine and** Mounds View and that portion of the city of New Brighton located **north and east of** a line described as follows: commencing at the intersection of 16th Street Northwest with the western boundary of the city of New Brighton, easterly along **16th Street Northwest** to Silver Lake Road, southerly along Silver Lake Road to **the southern boundary of the city of New Brighton**.

Annotation: The Ramsey County portion of Blaine added to senate district 52 is also added to house district 52B, for the same reasons. The description of the boundary dividing New Brighton between the two house districts has been changed. Chapter 246 attempted to run the districts' boundary easterly along the western boundary of New Brighton, which cannot be done. A

more significant defect arises from assigning the relatively small segment of the city surrounded by the line described to house district 52B; both districts are left with population deviations exceeding 50%. However, simply exchanging the two portions of New Brighton for one another greatly reduces both house districts' population deviations to under 1%. Reference to the metro area map of Chapter 246 indicates a legislative intent in consonance with this change.

Sec. 54. {2.563} FIFTY-THIRD DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 53 consists of that portion of Ramsey County consisting of the cities of Arden Hills, Shoreview, North Oaks, Gem Lake, and Vadnais Heights; that portion of White Bear Township bordered by boundaries of Anoka County and the cities of Shoreview and North Oaks; those portions of the city of White Bear Lake and White Bear Township lying westerly of a line described as follows: commencing at the intersection of Otter Lake Road and the northern boundary of the city of Gem Lake, northerly along Otter **Lake** Road to County Road H-2, easterly along County Road H-2 to Bald Eagle Boulevard, south**easterly** along Bald Eagle Boulevard **and an extension of Bald Eagle Boulevard** to the **southeastern** shoreline of Bald Eagle Lake, northerly, easterly, and northerly along the shoreline of Bald Eagle Lake to the northern boundary of Ramsey County; and **that portion** of the **city** of Little Canada not included in senate **district** 54; **that portion of the city of Maplewood lying within a line described as follows: commencing at the intersection of the northern boundary of**

the city of Maplewood and White Bear Avenue, southerly along White Bear Avenue to County Road C, westerly along County Road C to Keller Parkway, northerly along Keller Parkway to the western boundary of the city of Maplewood, northerly and easterly along the boundary of the city of Maplewood to the point of origin; and that portion of Anoka County consisting of the city of Circle Pines and that portion of the city of Blaine lying within a line described as follows: commencing at the intersection of Interstate Highway 35W and the northern boundary of Ramsey County, northerly along Interstate Highway 35W to **an extension of 92nd Avenue Northeast, easterly along the extension of 92nd Avenue Northeast to Leyte Street Northeast, southerly along Leyte Street Northeast to 89th Avenue Northeast, easterly along 89th Avenue Northeast to Naples Street Northeast, northerly along Naples Street to** Flowerfield Road, easterly along the extension and Flowerfield Road to Lexington Avenue, and northerly, easterly, southerly, easterly, southerly, and westerly along the boundaries of the city of Blaine to the point of origin.

Annotation: Chapter 246 contained an unnecessary and confusing reference to a railroad right-of-way, which has been deleted. The law referred to Otter Lake Road but also to Otter "Tail" Road; Otter Lake Road is correct. Chapter 246 also attempted to run the district line from Bald Eagle Boulevard to the shoreline of Bald Eagle Lake, but an extension is required. Such an extension is difficult to draw because Bald Eagle Boulevard parallels the shoreline. Moreover, the long, populated census block that borders the lake in this area prevents a

simple extension to the lake of one of the nearby streets. However, the change made does preserve the basic boundary of Chapter 246, while following the census block boundaries.

To clarify the boundaries of senate districts 53 and 54, near Gervais Lake, we specifically described the portion of Maplewood to be included in this district. Finally, we rejected the legislature's proposal to add a section of Blaine lying north of Circle Pines to senate district 53 and house district 53A. Without the proposed change, house districts 53A and 51A both exceed the 2% deviation criterion. However, the districts as originally constructed by the legislature are within constitutional limits. Absent a constitutional defect or an ambiguity in this portion of the boundary, the change proposed, although desirable, cannot be adopted.

Subd. 2. HOUSE DISTRICTS. Senate district 53 is divided into two house districts as follows:

(a) House district 53A consists of that portion of senate district 53 not included in house district 53B.

(b) House district 53B consists of that portion of senate district 53 consisting of the cities of North Oaks, Gem Lake, and Vadnais Heights; those portions of **the cities of Little Canada and Maplewood,** White Bear Township, and the city of White Bear Lake described in subdivision 1; and that portion of the city of Shoreview lying **east** of a line described as follows: commencing at the intersection of Hodgson Road and **State Highway 96, southeasterly along Hodgson**

Road to Snail Lake Boulevard, westerly, southerly, and westerly along Snail Lake Boulevard to County Road F, westerly along County Road F to Lexington Avenue and the western boundary of the city, **and** southerly, easterly, northerly, **and westerly** along the boundaries of the city of Shoreview to the point of origin.

Annotation: As constructed in Chapter 246, house district 53A is not contiguous and, although their precise contents are difficult to discern, house districts 53A and 53B both far exceed the constitutional limit for population deviation. Because the two portions of Shoreview to be included in house district 53B overlap south of Snail Lake Boulevard, we consulted the black and white and the color metro area maps of Chapter 246 to resolve the ambiguity. The maps, although lacking detailed annotations, illustrate the portions of Shoreview to be included in each house district. They also reveal that house district 53B was intended to contain the senate district portions of Little Canada and Maplewood. The changes reflect the legislature's apparent intent and create contiguous districts that satisfy constitutional population requirements and the adopted, 2% limit.

Sec. 55. {2.573} FIFTY-FOURTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 54 consists of that portion of Ramsey County consisting of the cities of Roseville, St. Anthony, Lauderdale, and Falcon Heights, that portion of the city of Maplewood lying within a line described as follows: commencing at the intersection of Rice Street and Larpenteur Avenue, easterly along Larpenteur Avenue to DeSoto

Street and a railroad right-of-way, northeasterly along the railroad right-of-way and an extension of it to Parkway Drive, northeasterly along Parkway Drive to Frost Avenue, easterly along Frost Avenue to **Chamber** Street, northerly along **Chamber** Street **and its extension** to **an extension of** the railroad right-of-way, northeasterly along **the extension and** the railroad right-of-way to Hazelwood Street, northerly along Hazelwood Street to State Highway 36, easterly along State Highway 36 to White Bear Avenue, northerly along White Bear Avenue to County Road C, westerly along County Road C **to Keller Parkway, northerly along Keller Parkway** to the western boundary of the city of Maplewood, **southerly and westerly** along the western boundary of the city of Maplewood to the point of origin; that portion of the city of Little Canada lying within a line described as follows: commencing at the intersection of the northern boundary of the city of Little Canada and Rice Street, southerly, easterly, and northerly along the boundary of the city of Little Canada to **the intersection of Keller Parkway and the southern boundary of senate district 53, northerly and** westerly along Keller Parkway to Little Canada Road, westerly along Little Canada Road to Interstate Highway 35E, northerly along Interstate Highway 35E to Interstate Highway 694, northwesterly along Interstate Highway 694 to the northern boundary of the city of Little Canada, and westerly along the northern boundary of the city of Little Canada to the point of origin, and that portion of Hennepin County consisting of the city of St. Anthony.

Annotation: To avoid any confusion, DeSoto

"Avenue" was corrected to DeSoto "Street." We also changed Atlantic Street to Chamber Street. Chapter 246 erroneously refers to both streets in its two descriptions of this boundary between senate districts 54 and 55. The metro area maps do not resolve the ambiguity. The choice of Chamber results, however, in smaller population deviations for senate districts 54 and 55 and house districts 54B and 55B. Whether Atlantic or Chamber Street is used, extensions are necessary to connect the street with the railroad right-of-way.

To finish the boundary description around Gervais Lake, we also clarified the portions of Maplewood and Little Canada to be included in this district. Although the descriptions are lengthier than those contained in Chapter 246, the modifications have not altered the content of the affected districts in this area.

Subd. 2. HOUSE DISTRICTS. Senate district 54 is divided into two house districts as follows:

(a) House district 54A consists of that portion of senate district 54 not included in house district 54B.

(b) House district 54B consists of those portions of the cities of Little Canada and Maplewood contained in senate district 54, and that portion of the city of Roseville lying within a line described as follows: commencing at the intersection of Snelling Avenue with the northern boundary of the city, southerly along Snelling Avenue to County Road C, easterly along County Road C to Hamline Avenue, southerly along Hamline Avenue to State Highway 36, easterly along State Highway 36 to Lexington Avenue,

southerly along Lexington Avenue to County Road B, easterly along County Road B to the eastern boundary of the city of Roseville, and northerly and **westerly** along the boundaries of the city of Roseville to the point of origin.

Annotation: The current annotation for State Highway 36 is used. Westerly was substituted for "easterly" as required to return the boundary line to the point of origin.

Sec. 56. {2.583} FIFTY-FIFTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 55 consists of that portion of Ramsey County consisting of the city of North St. Paul; that portion of the city of White Bear Lake not included in senate district 53; that portion of White Bear Township not included in senate district 53; that portion of Maplewood lying within a line described as follows: commencing at the intersection of Century Avenue and Interstate Highway 694, westerly along Interstate Highway 694 to White Bear Avenue, southerly along White Bear Avenue to **State** Highway 36, westerly along **State** Highway 36 to Hazelwood Street, southerly along Hazelwood Street to a railroad right-of-way, westerly along the railroad right-of-way to **an extension of** Chamber Street, southerly along **the extension and** Chamber Street to Frost Avenue, westerly and southwesterly along Frost Avenue to the extension of said railroad right-of-way, southwesterly along the extension and the railroad right-of-way to Larpenteur Avenue, easterly along Larpenteur Avenue to Century Avenue, northerly along Century Avenue to Holloway

Avenue and the southern boundary of the city of North St. Paul, westerly, northerly, and easterly along the boundaries of the city of North St. Paul to Century Avenue, and northerly along Century Avenue to the point of origin; and, that part of the city of St. Paul lying within a line described as follows: commencing at the intersection of Larpenteur Avenue and Interstate Highway 35E, southerly along Interstate Highway 35E to Arlington Avenue, easterly along Arlington Avenue to Wheelock Parkway, easterly along Wheelock Parkway to Johnson Parkway, southerly along Johnson Parkway to Maryland Avenue, easterly along Maryland Avenue to Kennard Street, northerly along Kennard Street to Sherwood Avenue, easterly along Sherwood Avenue to White Bear Avenue, northerly along White Bear Avenue to Larpenteur Avenue, and westerly along Larpenteur Avenue to the point of origin; and, that portion of Washington County lying within a line described as follows: the intersection of the southerly shoreline of White Bear Lake with the boundary between Ramsey and Washington counties, **easterly and southerly** along the shoreline, its extension, **and the eastern boundary of the city of Birchwood Village to County Road 29, easterly** along **County Road 29** to **State Highway 244**, northeasterly along **State Highway 244** to **County Road 12, northeasterly and easterly along County Road 12 to** Ideal Avenue North, southerly along Ideal Avenue North to the boundaries of the city of Pine Springs, **westerly**, southerly, **westerly**, southerly, **westerly**, and southerly along the boundaries of the city of Pine Springs to Interstate Highway 694, westerly to the eastern boundary of Washington County, and

northerly along the boundary to the point of origin.

Annotation: We again updated the annotation for State Highway 36 and, as done in senate district 54, used Chamber Street and its extension in the district boundary. Near Lake Phalen, extensions of Wheelock Parkway and of the lake's shoreline were deleted to eliminate the ambiguity arising from the lack of definite points of extension and to avoid the unnecessary splitting of a census block.

The description in Chapter 246 of the Washington County boundary was incomplete and inaccurate, although the direction of the boundary was clear from the text, and its location was discernible from the large metro area map of Chapter 246. The new description merely clarifies the boundary as originally drawn. Changing the directions around Pine Springs from "easterly" and southerly to "westerly" and southerly similarly clarifies the otherwise ambiguous district boundary, which cannot move easterly along the boundary of Pine Springs when starting at Ideal Avenue North.

Subd. 2. HOUSE DISTRICTS. Senate district 55 is divided into two house districts as follows:

(a) House district 55A consists of that portion of senate district 55 not included in house district 55B.

(b) House district 55B consists of that portion of Ramsey County consisting of the city of North St. Paul and those portions of the cities of Maplewood and St. Paul included in senate district 55.

Annotation: By including the senate district 55 portion of Washington County in house district 55B, Chapter 246 created two house districts with population deviations exceeding 10% each. Shifting this area to house district 54A brings both districts well within constitutional limits and conforms to the districts as depicted in the metro area maps of Chapter 246.

Sec. 57. {2.593} FIFTY-SIXTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 56 consists of that portion of Washington County not included in senate district 51, 55, or 57.

Subd. 2. HOUSE DISTRICTS. Senate district 56 is divided into two house districts as follows:

(a) House district 56A consists of that portion of senate district 56 north of a line described as follows: commencing at the intersection of the western boundary of Washington County with the southern boundary of the city of Mahtomedi easterly and northeasterly along the southern boundary of the city of Mahtomedi to the western boundary of Grant Township, southerly along the western boundary of Grant Township to the southern boundary of Grant Township, easterly along the southern boundary of Grant Township to the western boundary of Baytown Township southerly along the western boundary of Baytown Township to the southern boundary of Baytown Township, easterly along the southern boundary of Baytown Township to the eastern boundary of senate district 56.

(b) House district 56B consists of that portion of senate district 56 not included in house district 56A.

Sec. 58. {2.603} FIFTY-SEVENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 57 consists of that portion of Ramsey County consisting of that portion of the city of Maplewood lying south of Larpenteur Avenue, and that portion of Washington County south and west of a line described as follows: commencing at the intersection of the western boundary of Washington County and the Chicago and Northwestern Transportation Company railroad tracks in the city of Oakdale, easterly along the Chicago and Northwestern Transportation Company railroad tracks to Interstate Highway 694, southerly along Interstate Highway 694 to Valley Creek Road, easterly along Valley Creek Road to Queens Drive, southerly along Queens Drive to Afton Road, southeasterly along Afton Road to Tower Drive, northerly along Tower Drive to Valley Creek Road, easterly along Valley Creek Road to Pioneer Drive, southerly along Pioneer Drive to Bailey Road, easterly along Bailey Road to Woodbury Drive, southerly along Woodbury Drive to the southern boundary of the city of Woodbury, easterly along the southern boundary of Woodbury to the eastern boundary of the city of Cottage Grove southerly and westerly along the eastern and southern boundaries of Cottage Grove to the Mississippi River.

Subd. 2. HOUSE DISTRICTS. Senate district 57 is divided into two house districts as follows:

(a) House district 57A consists of that portion of

Ramsey County consisting of the portion of the city of Maplewood included in senate district 57 and that portion of Washington County consisting of the city of Landfall and those portions of the cities of Oakdale and Woodbury included in senate district 57.

(b) House district 57B consists of that portion of senate district 57 not included in house district 57A.

Annotation: Chapter 246 included the Ramsey County portion of Maplewood contained in senate district 57 in house district 57A, with which it is not contiguous. Moving the Maplewood section to house district 57B corrects this constitutional defect and conforms the district composition to that illustrated in the metro area map of Chapter 246.

Sec. 59. {2.613} FIFTY-EIGHTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 58 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and Glenwood Avenue, easterly along Glenwood Avenue to the Burlington Northern railroad tracks, southeasterly and northeasterly along the Burlington Northern railroad tracks to Interstate Highway 94, southerly along Interstate Highway 94 to Interstate Highway 394, easterly along Interstate Highway 394 to Hawthorne Avenue, northeasterly along Hawthorne Avenue to 9th Street North, southerly along 9th Street North to Hennepin Avenue,

northeasterly along Hennepin Avenue to Washington Avenue North, northwesterly along Washington Avenue North to Plymouth Avenue North, easterly and northeasterly along Plymouth Avenue North to the Mississippi River, northwesterly along the Mississippi River to the northern boundary of the city of Minneapolis, westerly along the northern boundary of the city of Minneapolis to the western boundary of the city of Minneapolis, southerly along the western boundary of the city of Minneapolis to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 58 is divided into two house districts as follows:

(a) House district 58A consists of that portion of senate district 58 lying north of a line described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and 21st Avenue North, easterly along 21st Avenue North to Upton Avenue North, northerly along Upton Avenue North to 24th Avenue North, easterly on 24th Avenue North to Sheridan Avenue North, northerly along Sheridan Avenue North to 26th Avenue North, easterly along 26th Avenue North to Penn Avenue North, northerly along Penn Avenue North to 29th Avenue North, easterly along 29th Avenue North to Humboldt Avenue North, northerly along Humboldt Avenue North to 30th Avenue North, easterly along 30th Avenue North to Dupont Avenue North, northerly along Dupont Avenue North to Lowry Avenue North, easterly along Lowry Avenue North to the eastern boundary of senate district 58.

(b) House district 58B consists of that portion of senate district 58 not included in house district 58A.

Annotation: Taking Lowry Avenue North easterly to the eastern boundary of senate district 58 splits a census block, but because this is an unpopulated water block, the Chapter 246 boundary has been preserved.

Sec. 60. {2.623} FIFTY-NINTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 59 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of the Mississippi River and the northern boundary of the city of Minneapolis, easterly along the northern boundary of the city of Minneapolis to the eastern boundary of the city of Minneapolis, southerly along the eastern boundary of the city of Minneapolis to the Mississippi River, northwesterly along the Mississippi River to State Highway 122, southwesterly along State Highway 122 to Interstate Highway 35W, southwesterly along Interstate Highway 35W to 7th Street South, northwesterly along 7th Street South to 5th Avenue South, southwesterly along 5th Avenue South to 9th Street South, northwesterly along 9th Street South to the eastern boundary of senate district 58, northerly along the eastern boundary of senate district 58 to the point of origin.

Annotation: For clarification and accuracy, we substituted "State Highway 122," the road's new name, for "U.S. Highway 12."

Subd. 2 HOUSE DISTRICTS. Senate district 59 is divided into two house districts as follows:

(a) House district 59A consists of that portion of senate district 59 lying north of a line described as follows: commencing at the intersection of the Mississippi River and 8th Avenue Northeast, northeasterly along 8th Avenue Northeast to the east bank of the Mississippi River, southeasterly along the east bank of the Mississippi River to **Hennepin Avenue, northeasterly along Hennepin Avenue to Main Street Northeast, northwesterly along Main Street Northeast to** 3rd Avenue Northeast, northeasterly along 3rd Avenue Northeast to 5th Street Northeast, northwesterly along 5th Street Northeast to Broadway Street Northeast, easterly along Broadway Street Northeast to Central Avenue Northeast, northerly along Central Avenue Northeast to the Burlington Northern railroad tracks, southeasterly along the Burlington Northern railroad tracks to Fillmore Street Northeast, northerly along Fillmore Street Northeast to 14th Avenue Northeast, easterly along 14th Avenue Northeast to Johnson Street Northeast, southerly along Johnson Street Northeast to Interstate Highway 35W, northeasterly and easterly along Interstate Highway 35W to the eastern boundary of the city of Minneapolis.

(b) House district 59B consists of that portion of senate district 59 not included in house district 59A.

Annotation: 3rd Avenue Northeast does not cross the Mississippi River and cannot be extended without splitting a populated census block. Slightly moving the boundary prevents any split and permits accurate calculation of the districts' populations. The change conforms to the metro area map of Chapter 246.

Sec. 61. {2.633} SIXTIETH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 60 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and West 50th Street, easterly along West 50th Street to Penn Avenue South, northerly along Penn Avenue South to Lake Harriet Parkway, easterly and northeasterly along Lake Harriet Parkway to West 46th Street, easterly along West 46th Street to Nicollet Avenue South, northerly along Nicollet Avenue South to West 36th Street, westerly along West 36th Street to Blaisdell Avenue South, northerly along Blaisdell Avenue South to West 34th Street, westerly along West 34th Street to Grand Avenue South, northerly along Grand Avenue South to West 32nd Street, westerly along West 32nd Street to Harriet Avenue South, northerly along Harriet Avenue South to West 31st Street, westerly along West 31st Street to Garfield Avenue South, northerly along Garfield Avenue South to West Lake Street, westerly along West Lake Street to Lyndale Avenue South, northerly along Lyndale Avenue South to Interstate Highway 94, easterly along Interstate Highway 94 and Interstate Highway 35W to the southern boundary of senate district 59, northwesterly along the southern

boundary of senate district 59 to the southern boundary of senate district 58, westerly along the southern boundary of senate district 58 to the western boundary of the city of Minneapolis, southerly along the western boundary of the city of Minneapolis to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 60 is divided into two house districts as follows:

(a) House district 60A consists of that portion of senate district 60 lying north of a line described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and West Lake Street, easterly along West Lake Street to the eastern boundary of senate district 60.

(b) House district 60B consists of that portion of senate district 60 not included in house district 60A.

Sec. 62. {2.643} SIXTY-FIRST DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 61 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows. commencing at the intersection of Lyndale Avenue South and Interstate Highway 94, easterly and northeasterly along Interstate Highway 94 and Interstate Highway 35W to **State** Highway **122**, easterly along **State** Highway **122** to Cedar Avenue South, southerly along Cedar Avenue South **to Minnehaha Avenue, southeasterly along Minnehaha Avenue to Cedar**

Avenue South, southwesterly and southerly along Cedar Avenue South to Hiawatha Avenue, southerly along Hiawatha Avenue to East 28th Street, westerly along East 28th Street to 21st Avenue South, southerly along 21st Avenue South to East 32nd Street, westerly along East 32nd Street to 19th Avenue South, southerly along 19th Avenue South to East 34th Street, westerly along East 34th Street to Bloomington Avenue South, southerly along Bloomington Avenue South to East 36th Street, westerly along East 36th Street to 10th Avenue South, southerly along 10th Avenue South to East 38th Street, westerly along East 38th Street to Elliot Avenue South, southerly along Elliot Avenue South to East 44th Street, westerly along East 44th Street to Chicago Avenue South, southerly along Chicago Avenue South to East 50th Street, westerly along East 50th Street to Park Avenue South, southerly along Park Avenue South to East Minnehaha Parkway, westerly along East Minnehaha Parkway to East 50th Street, westerly along East 50th Street to Stevens Avenue South, northerly along Stevens Avenue South to East 46th Street, westerly along East 46th Street to the eastern boundary of senate district 60, northerly along the eastern boundary of senate district 60, to the point of origin.

Annotation: As in senate district 59, U.S. Highway 12 has been changed to State Highway 122. Cedar Avenue South turns into Minnehaha Avenue for about a block just south of Interstate Highway 94, before turning southwesterly and eventually passing under Hiawatha Avenue. We added the necessary reference.

Subd. 2. HOUSE DISTRICTS. Senate district 61 is

divided into two house districts as follows:

(a) House district 61A consists of that portion of senate district 61 lying north of a line described as follows: commencing at the intersection of the western boundary of senate district 61 and West 25th Street, easterly along West 25th Street to Pillsbury Avenue South, southerly along Pillsbury Avenue South to West 26th Street, easterly along West 26th Street to 1st Avenue South, southerly along 1st Avenue South to West Lake Street, easterly along West Lake Street **and East Lake Street** to the eastern boundary of senate district 61.

(b) House district 61B consists of that portion of senate district 61 not included in house district 61A.

Annotation: Lake Street changes from "West" to "East" before reaching the eastern boundary of the senate district.

Sec. 63. {2.653} SIXTY-SECOND DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 62 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of **State** Highway **122** and Cedar Avenue South, northeasterly along **State** Highway **122** to the Mississippi River, southeasterly and southerly along the Mississippi River to the extension of East 54th Street, westerly along the extension of

East 54th Street and East 54th Street to 40th Avenue South, southerly along 40th Avenue South to East 55th Street, easterly along East 55th Street to 41st Avenue South, southerly along 41st Avenue South to East 56th Street, westerly along East 56th Street to 28th Avenue South, southerly along 28th Avenue South to East 58th Street, westerly along East 58th Street to **Longfellow Avenue South, northerly along Longfellow Avenue South to an extension of East 57th Street, westerly along the extension of East 57th Street to Cedar Avenue South, southerly along Cedar Avenue South to East 58th Street, westerly along East 58th Street** to 14th Avenue South, northerly along 14th Avenue South to East 54th Street, easterly along East 54th Street to Bloomington Avenue South, northerly along Bloomington Avenue South to East 48th Street, westerly along East 48th Street to the eastern boundary of senate district 61, northerly along the eastern boundary of senate district 61 to the point of origin. **Annotation**: We again changed U.S. Highway 12 to State Highway 122. Because Chapter 246 unnecessarily split a populated census block with the extension of East 58th Street to 14th Avenue South, we altered the boundary slightly to conform it with Mn/DOT maps and census data.

Subd. 2. HOUSE DISTRICTS. Senate district 62 is divided into two house districts as follows:

(a) House district 62A consists of that portion of senate district 62 lying north of a line described as follows: commencing at the intersection of the western boundary of senate district 62 and East 36th Street, easterly along East 36th Street to

Cedar Avenue South, southerly along Cedar Avenue South to East 38th Street, easterly along East 38th Street to Hiawatha Avenue, southeasterly along Hiawatha Avenue to East 42nd Street, easterly along East 42nd Street and its extension to the Mississippi River.

(b) House district 62B consists of that portion of senate district 62 not included in house district 62A.

Sec. 64. {2.663} SIXTY-THIRD DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 63 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis not contained in senate district 58, 59, 60, 61**, or 62**; that portion of the city of Richfield lying north of a line described as follows: commencing at the intersection of the western boundary of the city of Richfield and West 67th Street, easterly along West 67th Street **and its extensions** to Interstate Highway 35W, southerly along Interstate Highway 35W to West 73rd Street, easterly along West 73rd Street to 2nd Avenue South, southerly along 2nd Avenue South to the southern boundary of the city of Richfield, easterly along the southern boundary of the city of Richfield to the eastern boundary of the city of Richfield; the unorganized territory of Fort Snelling; and the Minneapolis-Saint Paul International Airport.

Annotation: Chapter 246 placed the portion of Minneapolis not contained in senate districts 57, 58, 59, 60, and 61 in senate district 63. Because senate district 57 does not contain any portion of the city, this

superfluous reference was deleted. Senate district 62 was also added to the list to prevent a double assignment. This addition creates minimal population deviations and effectuates the legislature's apparent intent to make senate district 63 the residual district for Minneapolis. In the Richfield segment of the district boundary, references to the extensions of West 67th Street are required to complete the boundary line as it passes through a park near James and Irving Avenues and as it approaches Interstate Highway 35W.

Subd. 2. HOUSE DISTRICTS. Senate district 63 is divided into two house districts as follows:

(a) House district 63A consists of that portion of senate district 63 north of a line described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and State Highway 62, easterly along State Highway 62 to Lyndale Avenue South, northerly along Lyndale Avenue South to West 58th Street, easterly along West 58th Street **and East 58th Street and its extension** to Interstate Highway 35W, southerly along Interstate Highway 35W to East 60th Street, easterly along East 60th Street to Portland Avenue South, northerly along Portland Avenue South to East 57th Street, southeasterly along East 57th Street to Chicago Avenue South, southerly along Chicago Avenue South to East 58th Street, easterly along East 58th Street to the western boundary of senate district 62.

(b) House district 63B consists of that portion of senate district 63 not included in house district

Annotation: The only change in the house districts clarifies the boundary West 58th Street and Interstate Highway 35W.

Sec. 65. {2.673} SIXTY-FOURTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 64 consists of that portion of Ramsey County consisting of that portion of the city of St. Paul located within an area described as follows: commencing at the intersection of the western boundary of the city of St. Paul and the southern boundary of senate district 66, easterly along the southern boundary of senate district 66 to Hamline Avenue, southerly along Hamline Avenue to Ayd Mill Road southeasterly along Ayd Mill Road to Summit Avenue, easterly along Summit Avenue to Griggs Street, northerly along Griggs Street to Portland Avenue, easterly along Portland Avenue to **Victoria Street, southerly along Victoria Street to Portland Avenue, easterly along Portland Avenue to** Dale Street, southerly along Dale Street to Summit Avenue, easterly and northeasterly along Summit Avenue to Western Avenue, southerly along Western Avenue and its extension to Ramsey Street, easterly along Ramsey Street and Grand Avenue to Interstate Highway 35E, southwesterly along Interstate Highway 35E to St. Clair Avenue, westerly along St. Clair Avenue to **an extension of** Victoria **Street**, southerly along **the extension and** Victoria **Street** to Jefferson Avenue, westerly along Jefferson Avenue to Interstate Highway 35E, southerly along Interstate Highway 35E to the southern boundary of

the city of St. Paul, southwesterly, northerly, westerly, and northwesterly along the southern boundary of the city of St. Paul to the western boundary of the city of St. Paul, northerly along the western boundary of the city of St. Paul to the point of origin.

Annotation: A park lying south of St. Clair Avenue prevents the boundary line from turning south on Victoria "Street;" we added an extension of Victoria and clarified the street name. Because Victoria Street interrupts Portland Avenue, we also inserted a reference to Victoria to preserve the boundary's continuity. No other changes in this otherwise unambiguous boundary are justified.

Subd. 2. HOUSE DISTRICTS. Senate district 64 is divided into two house districts as follows:

(a) House district 64A consists of that portion of senate district 64 lying north of a line described as follows: commencing at the intersection of the western boundary of the city of St. Paul and the extension of St. Clair Avenue, easterly along the extension of St. Clair Avenue and St. Clair Avenue to Snelling Avenue, southerly along Snelling Avenue to Jefferson Avenue, easterly along Jefferson Avenue to Lexington Parkway, northerly along Lexington Parkway to the Soo Line railroad tracks, easterly along the Soo Line railroad tracks to the eastern boundary of senate district 64.

(b) House district 64B consists of that portion of senate district 64 not included in house district

64A.

Annotation: Chapter 246 mistakenly refers to senate district "64B," which does not exist. The deletion corrects the error.

Sec. 66. {2.683} SIXTY-FIFTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 65 consists of that portion of Ramsey County consisting of that portion of the city of St. Paul located within an area described as follows: commencing at the intersection of the southern boundary of the city of St. Paul and the eastern boundary of senate district 64, northerly, easterly, northerly, and northeasterly along the eastern boundary of senate district 64 to Grand Avenue, westerly along Grand Avenue and Ramsey Street to the extension of Western Avenue, northerly along the extension of Western Avenue and Western Avenue to Summit Avenue, southwesterly and westerly along Summit Avenue to Dale Street, northerly along Dale Street to Portland Avenue, westerly along Portland Avenue **to Victoria Street, northerly along Victoria Street to Portland Avenue, westerly along Portland Avenue** to Griggs Street, southerly along Griggs Street to Summit Avenue, westerly along Summit Avenue to Ayd Mill Road, northwesterly along Ayd Mill Road to Hamline Avenue, northerly along Hamline Avenue to Charles Avenue, easterly along Charles Avenue to Lexington Parkway, northerly along Lexington Parkway to Minnehaha Avenue, easterly along Minnehaha Avenue to Dale Street, northerly along Dale Street to the Burlington Northern railroad tracks, easterly along the Burlington Northern

railroad tracks past Interstate Highway 35E to the north-south Burlington Northern railroad tracks, southeasterly along the north-south Burlington Northern railroad tracks **to an** extension **of Clermont Street, southwesterly along the extension of Clermont Street** to the Mississippi River, southerly along the Mississippi River to the southern boundary of the city of St. Paul, westerly and southwesterly along the southern boundary of the city of St. Paul to the point of origin.

Annotation: The reference to Victoria Street in senate district 64 is also added in this district, which shares the same boundary.

Subd. 2. HOUSE DISTRICTS. Senate district 65 is divided into two house districts as follows:

(a) House district 65A consists of that portion of senate district 65 lying west of a line described as follows: commencing at the intersection of the northern boundary of senate district 65 and Rice Street, southerly along Rice Street to John Ireland Boulevard, southwesterly along John Ireland Boulevard to Summit Avenue, southwesterly along Summit Avenue to the southern boundary of senate district 65.

(b) House district 65B consists of that portion of senate district 65 not included in house district 65A.

Sec. 67. {2.693} SIXTY-SIXTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 66

consists of that portion of Ramsey County consisting of that portion of the city of St. Paul located within an area described as follows: commencing at the intersection of the western boundary of the city of St. Paul with the northern boundary of the city of St. Paul, easterly along the northern boundary of the city of St. Paul to Interstate Highway 35E, southerly along Interstate Highway 35E to Arlington Avenue, easterly and southeasterly along Arlington Avenue and Wheelock Parkway **to Johnson Parkway, southeasterly along Johnson Parkway** to Maryland Avenue, westerly along Maryland Avenue to Edgerton Street, southerly along Edgerton Street to Cook Avenue, westerly along Cook Avenue to DeSoto Street, southerly along DeSoto Street to Case Avenue, westerly along Case Avenue and its extension to Interstate Highway 35E, southerly along Interstate Highway 35E to the **east-west** Burlington Northern railroad tracks, westerly along the **east-west** Burlington Northern railroad tracks to Dale Street, southerly along Dale Street to Minnehaha Avenue, westerly along Minnehaha Avenue to Lexington Parkway, southerly along Lexington Parkway to Charles Avenue, westerly along Charles Avenue to Hamline Avenue, southerly along Hamline Avenue to Interstate Highway 94, westerly along Interstate Highway 94 to the western boundary of the city of St. Paul, northerly along the western boundary of the city of St. Paul to the point of origin.

Annotation: Because Wheelock Parkway does not intersect with Maryland Avenue, the Johnson Parkway connection was required to continue the boundary line and to conform this description with that of the same

boundary in senate district 55. The "east-west" description clarifies which of the two Burlington Northern tracks in the area is to be followed westerly to Dale Street.

Subd. 2. HOUSE DISTRICTS. Senate district 66 is divided into two house districts as follows:

(a) House district 66A consists of that portion of senate **district** 66 lying east of a line described as follows: commencing at the intersection of the northern boundary of the city of St. Paul with Grotto Street, southerly along Grotto Street to Arlington Avenue, westerly along Arlington Avenue to Lexington Parkway, southerly along Lexington Parkway to East Como Lake **Drive**, southerly along East Como Lake **Drive** to **East Como Boulevard**, southerly along **East Como Boulevard and Como Avenue** to the Burlington Northern railroad tracks, westerly along the Burlington Northern railroad tracks to Chatsworth Street, southerly along Chatsworth Street to Front Avenue, easterly along Front Avenue to Western Avenue, southerly along Western Avenue to the southern boundary of senate district 66.

(b) House district 66B consists of that portion of senate district 66 not included in house district 66A.

Annotation: "District" replaces "portion," a typographical error. The boundary near Lake Como is also clarified in conformity with Mn/DOT and census

annotations.

Sec. 68. {2.703} SIXTY-SEVENTH DISTRICT.

Subdivision 1. SENATE DISTRICT. Senate district 67 consists of that portion of Ramsey County consisting of that portion of the city of St. Paul located within an area described as follows: commencing at the intersection of the southern boundary of the city of St. Paul with the eastern boundary of senate district 65, northerly and northwesterly along the eastern boundary of senate district 65 to the northern boundary of senate district 65, westerly along the northern boundary of senate district 65 to the eastern boundary of senate district 66, northerly and easterly along the eastern boundary of senate district 66 to Maryland Avenue, easterly along Maryland Avenue to Kennard Street, northerly along Kennard Street to Sherwood Avenue, easterly along Sherwood Avenue to White Bear Avenue, northerly along White Bear Avenue to the northern boundary of the city of St. Paul, easterly along the northern boundary of the city of St. Paul to the eastern boundary of the city of St. Paul, southerly along the eastern boundary of the city of St. Paul to the southern boundary of the city of St. Paul, westerly and northwesterly along the southern boundary of the city of St. Paul to the point of origin.

Subd. 2. HOUSE DISTRICTS. Senate district 67 is divided into two house districts as follows:

(a) House district 67A consists of that portion of senate district 67 lying north of a line described as follows: commencing at the intersection of the eastern boundary of senate district 67 with Old

Hudson Road, westerly along Old Hudson Road to Ruth Street, northerly along Ruth Street to Minnehaha Avenue, **westerly** along Minnehaha Avenue to Frank Street, northerly along Frank Street to East Seventh Street, **westerly** along East Seventh Street to Earl Street, northerly along Earl Street to the Burlington Northern railroad tracks, **westerly** along the Burlington Northern railroad tracks to the **western** boundary of senate district 67.

(b) House district 67B consists of that portion of senate district 67 not included in house district 67A.

Annotation: In two places, Chapter 246 describes the house districts' boundary as moving westerly where it must move easterly to reach the next referenced street. The original boundary also followed the Burlington Northern tracks easterly to the eastern boundary of the senate district. Although this is possible, the area described was not a horizontal line. The area "north" of this line that was intended to comprise house district 67A was, therefore, not clearly ascertainable. Substituting "westerly" and "western," clarifies the boundary and the contents of the districts, which possess adequate population deviations and which mirror the districts illustrated in the metro area maps of Chapter 246.

Sec. 69. {2.713} CONTROLLING DESCRIPTION.

If a territory in this state is not named in sections 2 to 68, but (1) lies within the boundaries of a legislative district, or (2) lies between the

boundaries of two or more legislative districts, for the purposes of sections 2 to 68, the territory referred to in clause (1) shall be a part of the legislative district within which it lies, and the territory referred to in clause (2) shall be a part of the contiguous legislative district having the smallest population.

If a territory in this state is within the boundaries of two or more legislative districts, for the purposes of sections 2 to 68, the territory shall be a part of the contiguous legislative district having the smallest population.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Civil File No. 4-91-202

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

and

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Intervening Plaintiffs,

v.

Joan Growe, Secretary of State
of the State of Minnesota;
Mark Lundgren, Carver County
Auditor, individually and on
behalf of all County Auditors
of the State of Minnesota,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives;
the Seventy-seventh Minnesota
State Senate; and Patrick
O'Connor, Hennepin County
Auditor, individually and on
behalf of all County Auditors
of the State of Minnesota,

Intervening Defendants.

---

and

Civil File No. 4-91-603

Duane Benson, Terry Dempsey,
Delores Hettig, Richard Harmon,
David E. Peterson, E.M. Patricia
Pidcock, and Frank Ringsmuth,

Plaintiffs,

v.

Joan Growe, Secretary of State
of the State of Minnesota,

Defendant,

and

The Seventy-seventh Minnesota
State House of Representatives;
and the Seventy-seventh Minnesota
State Senate,

Applicants for Intervention
as Defendants,

and

Patrick O'Connor, Hennepin County
Auditor, individually and on
behalf of all County Auditors
of the State of Minnesota,

Intervening Defendant.

Notice is hereby given that Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein and Theodore Suss, Intervening Plaintiffs; Joan Growe, Secretary of State of the State of Minnesota, Defendant; Patrick O'Connor, Hennepin County Auditor of the State of Minnesota, Intervening Defendant; and the Seventy-seventh Minnesota State House of Representatives and the Seventy-seventh Minnesota State Senate, Intervening Defendants, all hereby appeal to the Supreme Court of the United States from the Order of Stay

and the Judgment entered in this action on December 5, 1991. This appeal is taken pursuant to 28 U.S.C. § 1253.

DATED: December 13, 1991

Respectfully submitted,

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FILED: December 13, 1991
United States District Court
District of Minnesota

Supreme Court, U.S.
FILED
JAN 16 1992
OFFICE OF THE CLERK

No. 91-1084

In the
Supreme Court of the United States
October Term, 1991

PATRICIA COTLOW, ET AL.,
Appellants,

v.

JAMES EMISON, ET AL.,
Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

APPELLEES' MOTION TO DISMISS APPELLANTS' APPEAL AND AFFIRM AND REINSTATE THE ORDER OF STAY OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

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No. 91-1084

In the

Supreme Court of the United States

October Term, 1991

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all citizens of Minnesota similarly situated; Joan Growe, Secretary of State of the State of Minnesota; Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota; the Seventy-Seventh Minnesota State House of Representatives; and the Seventy-Seventh Minnesota State Senate,

Appellants,

vs.

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated; Duane Benson, Terry Dempsey, Delores Hettig, Richard Harmon, David E. Peterson, E.M. Patricia Pidcock, and Frank Ringsmuth; and Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Appellees.

Appeal from the United States District Court for the District of Minnesota

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APPELLEES' MOTION TO DISMISS APPELLANTS' APPEAL AND AFFIRM AND REINSTATE THE ORDER OF STAY OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

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I. STATEMENT OF FACTS

The litigation underlying this appeal is the consolidation of two federal district court actions. The first was brought by plaintiffs below and appellees here James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all citizens and voters of the state of Minnesota similarly situated ("the Emison plaintiffs"), and asked that a three-judge district court panel be formed to adopt legislative and congressional redistricting plans for Minnesota that meet constitutional and other legal requirements in the event that the Minnesota legislature fails to do so. The second action was brought by plaintiffs below and appellees here Duane Benson, Terry Dempsey, Dolores Hettig, Richard Harmon, David E. Peterson, E. M. Patricia Pidcock, and Frank Ringsmuth ("the Benson plaintiffs"), and asked that the federal district court find unconstitutional a legislative redistricting plan adopted by the Minnesota legislature as Minnesota Laws 1991, Chapter 246, on a party-line vote at the end of the legislative session in May 1991.[1]

A state court action that raises many but not all of the same issues as those raised by the Emison plaintiffs was also instituted, and an ad hoc three-judge state panel was created to consider that matter (hereinafter "the state panel"). See Cotlow v. Growe, MX 91-001562 (Minnesota Special Redistricting Panel).

Following the initial pretrial conference before the three-judge panel of the district court (hereinafter "the District Court") below on July 22, 1991, two separate cross-motions were brought: a motion by the Emison plaintiffs for stay of the parallel state proceedings and a

---

[1]The Governor of Minnesota attempted to veto Chapter 246, but in August 1991 a state district court judge ruled the veto to be invalid for procedural reasons.

motion by the legislature, intervening defendants below and appellants here, for abstention by the District Court.[2] On August 21, 1991, the District Court issued a Memorandum Opinion and Order concluding that Scott v. Germano, 381 U.S. 407 (1965), requires "both state and federal courts to defer to the legislature to draw a valid redistricting plan unless the legislature fails to act in a timely fashion." See Emison v. Growe, Memorandum Opinion (D. Minn., Aug. 21, 1991), Appellants' Appendix to Jurisdictional Statement A-39, A-48 ("Memorandum Opinion").[3] In the event that the legislature failed "to act in a timely fashion," the District Court specifically indicated that it would retain jurisdiction, given the time limitations for appeals of any state panel actions and the additional legal issues pending only before the District Court. See id. at A-43 - A-51. It therefore denied the legislature's motion to abstain. See id. at A-49. At the same time, and in order to insure that a valid redistricting plan would be in place for the 1992 state election process, the District Court indicated that it would develop a contingency plan to be announced only in the event the legislature failed to pass valid plans both for legislative and congressional districts. See id. at A-50. To that end, the District Court appointed special masters and acquired access to a computer system and program to begin preparing its contingent redistricting plans. In light of the

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[2]The "Minnesota State House of Representatives" and the "Minnesota State Senate" serving as parties to this action are essentially the Democratic-Farmer-Labor Party majority caucuses, or the majority caucus leadership in those bodies, who selected and engaged counsel. In fact, the Benson plaintiffs, appellees here, include Duane Benson and Terry Dempsey, who are Independent-Republican Party minority caucus leaders in the Minnesota State Senate and Minnesota State House of Representatives, respectively.

[3]The Appellants' Appendix to Jurisdictional Statement at A-48 fails to include the District Court's express reference to Scott v. Germano, 381 U.S. 407 (1965), as the legal authority for this required deference to the legislature.

District Court's determination regarding deference to state legislative action, the Emison plaintiffs' motion to stay the state proceedings was also denied. See id. at A-51.

Contrary to the determination of controlling law set forth in the District Court's Memorandum Opinion, the state panel continued its proceedings. After finding Chapter 246 unconstitutional on its face, the state panel proceeded to formulate a legislative redistricting plan for Minnesota. On December 5, 1991, following issuance by the state panel of its preliminary legislative redistricting plan, the District Court, noting the state panel's "direct violation of federal law" and the "intimidating" effect of a state court plan issued prior to the scheduled January 1992 legislative session, issued a stay of all state panel proceedings to prevent the implementation of any such plan. See Emison v. Growe, Civil No. 4-91-202, Order of Stay of All Proceedings Before the Minnesota Special Redistricting Panel, Appellants' Appendix to Jurisdictional Statement A-1, A-11, A-14 (D. Minn., Dec. 5, 1991) ("Order of Stay"). In issuing its Order of Stay, the District Court stated that it viewed the action of the state panel as being "in direct violation of federal law and interfering with the continuing jurisdiction of [the District Court]." Id. at A-11. The state panel nonetheless issued its final legislative redistricting plan on December 9, 1991, and set January 17, 1992, as the date for submission to it of congressional redistricting plans by the parties to that action.

Appellants by this appeal challenge the District Court's Order of Stay of the state panel proceedings, which this Court vacated on appellants' motion to expedite consideration of their Jurisdictional Statement. That stay, arguments on which were fully briefed in August 1991, was entered only to prevent the state panel's improper interference with both the District Court's jurisdiction and with the District Court's order requiring deference to the ongoing legislative process.

II. STATEMENT OF PURPOSE

This motion is brought by appellees to dismiss this appeal and to affirm and reinstate the order of the three-judge panel of the United States District Court for the District of Minnesota staying further proceedings of the Minnesota Special Redistricting Panel to aid the jurisdiction of the federal court and to protect the orders of that court.

III. STATEMENT OF THE CASE

A. The District Court Has Authority to Issue Its Stay Under the Anti-Injunction Act and is Not Prohibited from Doing So by that Act.

The Anti-Injunction Act provides that "[a] court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." See 28 U.S.C. § 2283 (emphasis added). This statute permits a federal court to stay proceedings in a state court where, among other things, the injunction is necessary to aid the federal court's jurisdiction or to protect or effectuate that court's judgments. Appellants nonetheless argue that the statute prohibits the action taken here by the District Court. This argument, however, ignores the District Court's justification under the affirmative provisions of the Anti-Injunction Act and wholly avoids a discussion of the impropriety of the state panel's own actions in light of the District Court's August 21, 1991, Order and well-settled law requiring initial court deference to the legislative process in redistricting.

As shown below, the District Court's Order of Stay of the state panel redistricting proceeding was entered to protect federal jurisdiction and prior District Court orders

and to insure that the state legislature was given adequate opportunity to adopt a valid redistricting plan in a timely manner. Such an action is fully within the express authority granted by the Anti-Injunction Act.

1. The District Court's Order of Stay Was Necessary in Aid of Its Jurisdiction.

The District Court specifically found that its Order of Stay was necessary in aid of its jurisdiction in the redistricting matter and was therefore proper under the "aid of jurisdiction" authority of 28 U.S.C. § 2283. See Order of Stay, Appellants' Appendix to Jurisdictional Statement at A-10 - A-13. Under this provision of the Anti-Injunction Act, a federal court may issue an injunction against state proceedings where those state proceedings so interfere with a federal court's "consideration or disposition of a case as to seriously impair the federal court's flexibility and authority to decide that case." See Atlantic Coast Line R.R. Co. v. Brotherhood of Locomotive Engineers, 398 U.S. 281, 295 (1970). The District Court, fully cognizant of both the existence and scope of this power, held that its action was in fact necessary to protect its exercise of jurisdiction in this case. See Order of Stay, Appellants' Appendix to Jurisdictional Statement at A-10 - A-14 (citing, inter alia, Atlantic Coast Line, 398 U.S. at 295). The District Court determined that the Order of Stay was necessary, because the state panel's action in issuing a redistricting plan prior to the legislature's scheduled redistricting session in January 1992 was in violation of federal law and the District Court's August 21, 1991, Order requiring deference to the legislative process. That action thereby impaired the District Court's flexibility and authority to decide its case. See id.

The District Court issued its August 21, 1991, Order and Memorandum Opinion to insure full compliance with the mandates of White v. Weiser, 412 U.S. 783 (1973), Scott

v. Germano, 381 U.S. 407 (1965), and Reynolds v. Sims, 377 U.S. 533 (1964), by requiring judicial deference to the primary authority of the legislative process for enactment of valid redistricting plans. The Order was entered to provide an opportunity for unfettered legislative redistricting action, as well as in recognition of the need for continuing federal jurisdiction and the existence of federal issues not presented in the state action. See Memorandum Opinion, Appellants' Appendix to Jurisdictional Statement at A-45 - A-50. The District Court concluded that all courts -- state and federal -- must defer until the legislature in its January 1992 session could address redistricting. Id. at A-48. In the interim, however, the District Court expressly retained jurisdiction over the matter, recognizing it was best able to review all legal challenges within the limited time available to avoid disrupting the 1992 Minnesota election process. See id. at A-49 - A-50.

Despite knowledge of the District Court's Order and argument by the parties as to its meaning, the state panel proceeded with promulgation of its legislative redistricting plan.[4] The state panel proceeded to promulgate and to publish a plan that by its very existence flaunted the Order of the District Court and impaired the authority of the District Court to decide its case. By issuing a plan that

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[4]The impact of state court proceedings on the federal court's jurisdiction may be better understood in the context of the maneuvering of the legislature as a party to both the state and federal actions. The District Court issued its August 21, 1991, Order upon the intervening defendant legislature's request that the District Court abstain until the legislature acted in January 1992, and the District Court reached its decision based, in part, on the legislature's express representation to the court that valid redistricting plans would be passed by the state legislature in January 1992 and would subsequently become law. See Memorandum Opinion, Appellants' Appendix to Jurisdictional Statement at A-42, A-48 - A-51. As intervening defendant in the state action, the legislature then sought accelerated adoption of a legislative redistricting plan by the state panel, which in response advanced its schedule for issuing such a plan.

disregarded both the deference required where the legislature remains able to act and by determining that its plan presented no Voting Rights Act violations (an issue beyond the scope of the pleadings and over which the state panel lacked authority to act), the state panel improperly intimidated the legislative process by rendering its "advice" as to what it would find to be an appropriate legislative plan.[5] See Order of Stay, Appellants' Appendix to Jurisdictional Statement at A-10 - A-11.

The Order of Stay was entered to protect the District Court's express retention of jurisdiction and its superior ability to adjudicate all issues, as well as the District Court's August 21, 1991, Order directing judicial deference to the legislative process. See id. at A-5 - A-6, A-9 - A-14. The stay was within the District Court's authority as an injunction in aid of the court's jurisdiction. See Atlantic Coast Line, 398 U.S. at 295. Cf. Pennsylvania Bureau of Correction v. United States Marshals Serv., 474 U.S. 34, 40 (1985) (Construing parallel language in All Writs Act, which authorizes writs necessary in aid of a federal court's jurisdiction, this Court has held that a federal court may "issue such commands . . . as may be necessary or appropriate to effectuate and prevent the frustration of orders it has previously issued in its exercise of jurisdiction otherwise obtained.") (citing United States v. New York Tel. Co., 434 U.S. 159, 172 (1977)).

The procedures adopted by the District Court are consistent with this Court's directive in Germano, in which this Court vacated an initial district court stay and directed the district court to enter an order allowing the state to attempt to develop a valid redistricting plan, but "within a reasonable time." Germano, 381 U.S. at 409. In doing so, this Court specifically directed:

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[5]The order of the state panel applies only to legislative redistricting. Congressional redistricting proposals are only now being submitted by the parties in the state action.

> The District Court shall retain jurisdiction of the case and in the event a valid reapportionment plan for the State Senate is not timely adopted it may enter such orders as it deems appropriate, including an order for a valid reapportionment plan . . . .

Id. at 409-410 (emphasis added).

In seeking to justify the state panel's continued attempts to proceed, appellants deny the applicability of the "in aid of jurisdiction" injunctive power of the federal courts. See Jurisdictional Statement at 19-22. Appellants propose an overly narrow reading of the Anti-Injunction Act, arguing that application of the "in aid of jurisdiction" power exists only where the proceeding is an action in rem. See id. at 20.

Appellants' argument ignores both the language of the Anti-Injunction Act and this Court's interpretation of that language in Atlantic Coast Line. See Atlantic Coast Line, 398 U.S. at 295. Neither the statute nor the Court's interpretation imposes an in rem limitation on the "in aid of jurisdiction" authority to issue a stay, and Atlantic Coast Line in fact suggests that such a stay may be issued whenever a state court's actions interfere so seriously with a federal court's adjudication that the latter's flexibility and authority to decide that case are seriously impaired. See id. See also Skolnick v. State Electoral Bd. of Ill., 336 F. Supp. 839, 872 (N.D. Ill. 1971) (Injunction against state court proceedings in redistricting case was merited where those proceedings could not provide constitutional and timely solutions to the problems at issue). In this action, where a state panel has proceeded in violation of applicable federal law as described in the District Court's August 21, 1991, Order, thereby interfering with the jurisdiction of a court better positioned to resolve all aspects of a dispute, the stay was clearly within the District Court's power. See 28 U.S.C. § 2283; see also Laker Airways v. Sabena,

Belgian World Airlines, 731 F.2d 909, 930 (D.C. Cir. 1984).

2. The District Court's Order of Stay Was Necessary in Aid of Its Jurisdiction from Its 1982 Continuing Redistricting Orders.

Independent of the District Court's authority to issue a stay in aid of its 1991 jurisdiction, the stay is also necessary as a protection of continuing federal jurisdiction established in LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982), aff'd sub nom. Orwoll v. LaComb, 450 U.S. 966 (1982) ("LaComb I") and LaComb v. Growe, 541 F. Supp. 160 (D. Minn. 1982) ("LaComb II"). In LaComb I, Minnesota's current congressional districts were established by an order of the District Court that provided:

> We continue to enjoin the defendants, including Joan Growe, Secretary of State of Minnesota, from holding or conducting any future elections for Congress under any apportionment plan except that which we adopt today or a constitutional plan adopted after this date by the State of Minnesota.

See LaComb I, 541 F. Supp. at 151. The state of Minnesota has not adopted a constitutional plan for congressional districts since the District Court's 1982 order. The District Court's continuing 1982 order in LaComb I has therefore been the sole source of control over the conduct of congressional elections since that order was entered. It has not been amended or dissolved. The Secretary of State and all other Minnesota election officials remain subject to it. No other court can order a new plan of congressional districts without colliding directly with the authority of the District Court's LaComb I order. Absent further action by the District Court, no congressional election can be held except under that court's 1982 plan.

Similarly, the District Court's 1982 order in LaComb II,

establishing state legislative districts, remains in place. The Minnesota legislature codified the District Court's plan for legislative districts. See Minn. Stat. §§ 2.019, 2.042-2.702. However, under the plain language of the LaComb II order, which parallels the language from LaComb I, future legislative elections must be governed by either the federal court's original plan or a "constitutional plan adopted after this date by the State of Minnesota." See LaComb II, 541 F. Supp. at 167.

Because the 1982 plan for legislative districts is admitted by all parties to be unconstitutional and no subsequent constitutional plan has been adopted by the state of Minnesota, control over legislative elections continues to rest with the District Court. No action can be taken by any other court until the provisions of the continuing order have been resolved or the order vacated.

The state panel in the parallel action cannot act on any redistricting plan -- congressional or legislative -- without eventually colliding with the federal judiciary's continuing jurisdiction. That collision was effectively avoided by the District Court's Order of Stay. The state panel's demonstrated desire to publish an advisory redistricting plan immediately prior to reconvening of the current legislative session, which occasioned the Order of Stay, serves only to interfere with the federal judiciary's jurisdiction. The state panel's actions ignore the deference to the legislative process required by law, as stated in the District Court's August 21, 1991, Order. The District Court's Order of Stay of state proceedings was clearly merited. See 28 U.S.C. § 2283.

3. The District Court's Order of Stay Was Necessary to Protect Its Prior Judgments and Orders.

The District Court's action is likewise supported by Anti-Injunction Act authority for protection or effectuation of the District Court's judgments. See 28 U.S.C. § 2283.

The state panel's action is directly contrary to the District Court's August 21, 1991, Order, in which the District Court, after full briefing by the parties, determined that Germano requires deference by all courts -- state and federal -- to the legislative process. See Memorandum Opinion, Appellants' Appendix to Jurisdictional Statement at A-48. The issuance of a legislative redistricting plan by the state panel is contrary to the District Court's determination that federal law prohibits the imposition of judicial judgments when there still is opportunity for the process to accomplist redistricting. See Order of Stay, Appellants' Appendix to Jurisdictional Statement at A-5 - A-11. The District Court therefore was authorized under the Anti-Injunction Act to enjoin the state panel's proceeding. See 28 U.S.C. § 2283; Sperry Rand Corp. v. Rothlein, 288 F.2d 245, 248-49 (2d Cir. 1961) (§ 2283 applies to interlocutory orders); 17 C. Wright, A. Miller & E. Cooper, Federal Practice & Procedure § 4226 at 550 (2d ed. 1988, Supp. 1991) (suggesting § 2283 "judgment protection" injunction authority applies to interlocutory orders).

This Court's decision in Chick Kam Choo v. Exxon Corp., 486 U.S. 140 (1988), reinforces a determination that the "protection of judgments" provision of the Anti-Injunction Act applies here. In Chick Kam Choo, this Court determined that a federal district court's injunction of the prosecution of a wrongful death action in Texas or any other state's courts was overbroad to the extent the federal court's prior determination of forum non conveniens had not determined whether the Texas state courts, which operate under a broad "open-courts" mandate, would consider themselves to be an appropriate forum. Id. at 148. However, this Court also noted that the federal injunction was permissible to the extent that it enjoined the Texas court from applying Texas law, because the federal court had already decided that Singapore law controlled the case. This Court therefore recognized the applicability of the Anti-Injunction Act to prevent a state court's litigation of

"claims or issues" that "have been decided by the federal court." Id.

By formulating and publishing a judicial redistricting plan a month prior to the 1992 legislative session, the state panel necessarily determined that it was not required to defer to the legislative process. The state panel's approach therefore unavoidably conflicts with the District Court's prior express decision. The Order of Stay of the state panel proceedings was therefore within the federal court's authority under the Anti-Injunction Act as a means of protecting the August 21, 1991, Order. See 28 U.S.C. § 2283.

The District Court has similar authority to enjoin the state panel to protect the judgments reached by the District Court in the LaComb decisions. Those judgments by their own language continue in force. The state panel by its actions improperly seeks to overturn and interfere with those continuing orders. Such an attempt necessarily triggers the federal judiciary's authority under the Anti-Injunction Act to issue stays necessary for the protection of the prior judgments. See 28 U.S.C. § 2283.

B. The District Court's Order of Stay Was Authorized Under the All Writs Act, 28 U.S.C. § 1651(a), to Aid Its Jurisdiction and Protect Its Prior Orders.

Appellants suggest that a federal court may not issue an injunction to protect its jurisdiction within the meaning of 28 U.S.C. § 1651 until the court has rendered a judgment in its own proceeding and that, in any case, the state court in this matter first obtained jurisdiction, meriting the exclusion of action by other courts. See Jurisdictional Statement at 26-28. Appellants' arguments are without merit.

The All Writs Act expressly provides that:

> The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

28 U.S.C. § 1651(a). The breadth of the power of the federal courts under this provision is demonstrated both by the language of the provision itself and by this Court's subsequent interpretations of that language. See, e.g., Pennsylvania Bureau of Correction v. United States Marshals Serv., 474 U.S. 34, 40-43 (1985). The All Writs Act provides authority to a federal court to issue writs to protect its own judgments or orders. See Jurisdictional Statement at 25-26 (citing, inter alia, Pennsylvania Bureau, 474 U.S. at 40-43). As the Court in Pennsylvania Bureau specifically stated:

> [T]his Court consistently has construed the All Writs Act to authorize a federal court "to issue such commands . . . as may be necessary or appropriate to effectuate and prevent the frustration of orders it has previously issued in its exercise of jurisdiction otherwise obtained."

Pennsylvania Bureau, 474 U.S. at 40 (citing United States v. New York Tel. Co., 434 U.S. 159, 172 (1977)).

The District Court here specifically stated that its Order of Stay was issued to protect its August 21 and October 5 orders retaining federal jurisdiction and requiring deference to the Minnesota state legislature. See Order of Stay, Appellants' Appendix to Jurisdictional Statement at A-10 - A-12. These orders were issued under the authority of federal jurisdiction conferred in 28 U.S.C. § 2284. Protection of the orders therefore clearly falls within the federal court authority contemplated by Pennsylvania

Bureau. See Pennsylvania Bureau, 474 U.S. at 40.

Appellants' argument that a judgment is needed in a federal court before that court may act to protect its jurisdiction is without merit. Cf. Pennsylvania Bureau, 474 U.S. at 40 with Jurisdictional Statement at 26. As quoted above, this Court in Pennsylvania Bureau explicitly stated that a stay may issue from a federal court to protect orders previously issued by that court in exercising its jurisdiction. See Pennsylvania Bureau, 474 U.S. at 40.

Appellants' citation to Laker Airways v. Sabena, Belgian World Airlines, 731 F.2d 909, 928-29 (D.C. Cir. 1984), in support of their argument is likewise misplaced. In Laker Airways, the United States Court of Appeals for the District of Columbia Circuit considered the propriety of a district court's temporary restraining order against litigation instituted in the United Kingdom, where that litigation was brought to obtain an injunction against the action already commenced in the United States. See id. at 917-18. Thus, Laker Airways involved resolution of a dispute between American and English courts under principles of comity. In the comity analysis performed in Laker Airways, the court specifically recognized that, "[situations presenting questions as to the effectiveness and propriety of injunctions against other proceedings] may arise either before or after a judgment has been entered." See id. at 927 (footnote omitted) (emphasis added). In the court's opinion, therefore, the question was not whether a judgment was obtained in the action, but rather under what circumstances an injunction might issue. See id. at 926-33.

The appellate court in Laker Airways in fact permitted the injunction to protect the federal court's jurisdiction, where that jurisdiction was the one best able to consider fully all parties' claims.[6] See id. at 930. Laker Airways

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[6]Appellants in also arguing against the applicability of the Anti-Injunction Act "in aid of jurisdiction" authority for issuance of stays make the assumption that the District Court was motivated by a

recognized that the federal court's injunction was necessary in aid of that court's jurisdiction, and the injunction was therefore proper. See id.

1. The Propriety of an Injunction of Concurrent State Proceedings Is Not Dependent on Which Proceeding Was First Commenced.

Just as the propriety of a federal court's injunction is

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perceived exclusive jurisdiction over claims under Section 2 of the Voting Rights Act. See Jurisdictional Statement at 20 n.6. Appellants then maintain that such an assumption is erroneous and therefore imply that the District Court's decision was incorrect. See id.

It is clear from a reading of the District Court's Order of Stay that exclusive jurisdiction over Voting Rights Act claims was not the basis for the court's action. See Order of Stay, Appellants' Appendix to Jurisdictional Statement at A-10 - A-11. Rather, the District Court made plain that its concern, as was the court's in Laker Airways, was that the state action did not include all claims and arguments presented in the federal action and that the state action may therefore not be able to resolve all challenges to the redistricting plan in a timely manner. See id.

In any case, however, appellants incorrectly cite Hathorn v. Lovorn, 457 U.S. 255, 269 (1982) for the proposition that state courts necessarily have concurrent jurisdiction over claims arising under Section 2 of the Voting Rights Act. The issue in Hathorn was solely the state court's ability to determine the impact of Voting Rights Act § 5 requirements on state procedures. See id. at 257. The Supreme Court in its holding explicitly limited state court jurisdiction of § 5 issues to instances where the Voting Rights Act question arises collaterally. Id. at 266. As noted by this Court:

> [E]ven a finding of exclusive federal jurisdiction over claims arising under a federal statute usually will not prevent a state court from deciding a federal question collaterally.

Id. (quotation omitted). Although exclusivity of federal jurisdiction was therefore not an issue, the Court nevertheless suggested that federal court jurisdiction over § 5 was in fact exclusive. See id. at 267-68 & n.20. Thus, the state court jurisdictional issue faced in Hathorn was, by the Court's own language, "limited." Id. at 268-69.

not merely a matter of whether a judgment was first obtained in the federal court, it is likewise not simply a matter of which court first begins a case, with the court of first filing then holding jurisdiction to the exclusion of all other courts, as appellants contend. See Jurisdictional Statement at 27 (quoting Kline v. Burke Construction Co., 260 U.S. 226, 231 (1922)). Appellants' reliance on Kline for this proposition is unsupportable.

Kline involved the distinction between in rem and in personam jurisdiction. This Court held that in rem jurisdiction over a "thing" precludes similar jurisdiction by another court. See Kline, 260 U.S. at 231-32, 235. This is the rule that appellants cite, despite their simultaneous recognition that this controversy does not involve jurisdiction over a thing. See Jurisdictional Statement at 26-27.

Nevertheless, the Kline Court went on expressly to hold that the rule quoted extensively by appellants applied only to in rem jurisdiction. See Kline, 260 U.S. at 231-32, 235. Appellants, in relying upon this rule, have therefore wholly failed to recognize that the rule does not apply to this case.

2. The Propriety of the District Court's Order of Stay Is Not Dependent on the All Writs Act.

Finally, appellants fail to recognize that authority under the All Writs Act is not a necessary concomitant to support the District Court's action. Rather, as indicated by this Court in Pennsylvania Bureau:

> The All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute. Where a statute specifically addresses the particular issue at hand, it is that authority, and not the All Writs Act, that is controlling.

See Pennsylvania Bureau, 474 U.S. at 43. As demonstrated

above, the Anti-Injunction Act clearly supports the District Court's action in staying the state panel proceedings. In addition, the Anti-Injunction Act stands as independent authority for the imposition of a federal stay of state proceedings, where that stay is necessary either to protect the orders and judgments of the federal court or to protect the federal court's jurisdiction. See 28 U.S.C. § 2283. Accordingly, under the reasoning of Pennsylvania Bureau, the All Writs Act provides only any necessary residual authority in support of the District Court's action.

IV. CONCLUSION

As the District Court originally determined in its August 21, 1991, Order and Memorandum Opinion, the appropriate forum for determination of Minnesota redistricting issues in the first instance is the state's legislature, as originally argued by appellants. The state panel acted in contravention of this well-settled principle, ignored the District Court's determination and its establishment of procedures to develop contingent redistricting plans, and accelerated its proceedings to announce its legislative redistricting plan a month before the legislature was scheduled to meet in January 1992 to address that subject.

The District Court's Order of Stay ensured that the legislature properly would have the opportunity to adopt independently legislative and congressional redistricting plans that meet constitutional and other legal requirements after thorough consideration. In light of the federal and state judicial review schedules involved and the clear justification for the federal panel's continued protection of the entire legislature's right to conduct redistricting, this appeal is without merit. Accordingly, appellees request this appeal be dismissed and that the District Court's Order of Stay be affirmed and reinstated.

Dated: January 15, 1992

Respectfully submitted,

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No. 91-1084

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

PATRICIA COTLOW, PHILLIP KRASS, SHARON LACOMB, JAMES STEIN, AND THEODORE SUSS, INDIVIDUALLY AND ON BEHALF OF ALL CITIZENS OF MINNESOTA SIMILARLY SITUATED; JOAN GROWE, SECRETARY OF STATE OF THE STATE OF MINNESOTA; PATRICK O'CONNOR, HENNEPIN COUNTY AUDITOR, INDIVIDUALLY AND ON BEHALF OF ALL COUNTY AUDITORS OF THE STATE OF MINNESOTA; THE SEVENTY-SEVENTH MINNESOTA STATE HOUSE OF REPRESENTATIVES; AND THE SEVENTY-SEVENTH MINNESOTA STATE SENATE,

Appellants,

vs.

JAMES EMISON, JUDY FAIRBANKS, MARIE IVERSON, KEN DEAN, STEVE CASTILLO, LEW FREEMAN, AND YAO LO, INDIVIDUALLY AND ON BEHALF OF ALL CITIZENS AND VOTERS OF THE STATE OF MINNESOTA SIMILARLY SITUATED; DUANE BENSON, TERRY DEMPSEY, DELORES HETTIG, RICHARD HARMON, DAVID E. PETERSON, E.M. PATRICIA PIDCOCK, AND FRANK RINGSMUTH; AND MARK LUNDGREN, CARVER COUNTY AUDITOR, INDIVIDUALLY AND ON BEHALF OF ALL COUNTY AUDITORS OF THE STATE OF MINNESOTA,

Appellees.

Appeal from the United States District Court
for the District of Minnesota

APPELLANTS' BRIEF OPPOSING APPELLEES' MOTION TO DISMISS APPELLANTS' APPEAL AND AFFIRM AND REINSTATE THE ORDER OF STAY

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On January 10, 1992, this Court vacated the order of stay from which this appeal arose. Appellees have now moved this Court to reconsider its January 10 order and to reinstate the order of stay issued by the United States District Court for the District of Minnesota. Appellants Joan Growe, Patrick O'Connor, the Seventy-seventh Minnesota State House of Representatives, and the Seventy-seventh Minnesota State Senate, (the "State Appellants") submit this brief in opposition to appellees' motion in order to address certain points which appellees raise which were not previously addressed in appellants' Jurisdictional Statement. Due to the time constraints inherent in the Court's expedited consideration of this appeal, the State Appellants' response addresses only those arguments raised by appellees in support of their motion not already addressed in appellants' Jurisdictional Statement.

1. The Primary Purpose of the District Court's Stay Order No Longer Exists

At pages 5-6 of their Motion to Dismiss, appellees characterize the purpose of the stay order issued by the District Court as follows:

> The District Court issued its August 21, 1991, Order and Memorandum to insure full compliance with the mandates of White v. Weiser, 412 U.S. 783 (1973), Scott v. Germano, 381 U.S. 407 (1965) and Reynolds v. Sims, 377 U.S. 533 (1964), by requiring judicial deference to the primary authority of the legislative process for valid redistricting plans. . . . The District Court concluded that all courts--state and federal--must defer until the legislature in its January 1992 session could addressredistricting. (Appellees' Motion to Dismiss at 5-6)

On January 9, 1992, the Minnesota Legislature passed two redistricting plans--one providing for congressional districts and the other adopting technical corrections to the legislative districts which were enacted in May 1991.[1] Minnesota Governor Arne Carlson vetoed both plans on January 10, 1992. The Legislature is now in recess until February 18, 1992. The leadership of the Legislature has given no indication that the Legislature will again take up redistricting during this session. Indeed, at the outset of the legislative session, the leadership announced that the redistricting issue would be addressed only during the first part of the session with the latter part of the session being devoted to other issues.

Because the Legislature is no longer considering redistricting, the matter is now appropriately before the courts. Thus, the primary justification offered by the District Court for its stay no longer exists.

2. Appellees' Attempt To Secure for the Federal Court Superiority Over the State Court in the Redistricting Process Is Contrary to Settled Law

The need for the judiciary to defer to the Legislature in the first instance with respect to the establishment of a redistricting plan is not at issue. The State Appellants do notdispute that legislatures have the primary responsibility for

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[1] Appellees obscure the fact that the Minnesota Legislature enacted a legislative redistricting plan in May 1991. Although certain sections of the plan were held to be unconstitutional, due to errors in accurately describing the boundaries of the districts, the state court held that the plan, when properly construed, required only minimal, technical corrections. See App. A-259.

establishing a reapportionment plan. The State Appellants contend only that state, rather than federal, courts have the primary responsibility for reviewing whatever plan emerges from the legislative process and establishing plans in the absence of appropriate legislative action. The issue here presented then is not the proper relation between the state court and the state legislature, but rather the proper relation between the state court and the federal court. In this regard, appellees' argument that federal courts have the inherent authority to pre-empt the state courts' role in redistricting is contrary to this Court's pronouncements on the subject.

Appellees' treatment of the leading case on the issue of parallel state and federal redistricting challenges, Scott v. Germano, 381 U.S. 407 (1965), illustrates the overall weakness of their position. Appellees' primary discussion of Germano occurs in its argument that the District Court's stay was necessary in aid of its jurisdiction under the Anti-Injunction Act. See Motion to Dismiss at 5-6. In this regard, appellees argue that the procedures adopted by the District Court are "consistent with this Court's directive in Germano" because the Court in Germano recognized that if the state did not develop a valid redistricting plan "within a reasonable time," the federal court could act. In particular, appellees rely on the following quote from Germano:

> The District Court shall retain jurisdiction of the case and in the event a validreapportionment plan for the state senate is not timely adopted it may enter

> such orders as it deems appropriate including an order for a valid reapportionment plan . . . .

Appellees' Motion to Dismiss at 8, quoting Germano, 381 U.S. at 409-10 (emphasis supplied by appellees).

Appellees' reliance on the quoted excerpt from Germano is misplaced. The recognition in Germano of the federal court's right to act if the state were unsuccessful in timely adopting a valid reapportionment plan does not establish that the federal court has the inherent authority "in aid of its jurisdiction" to preempt the state court from taking any role in the redistricting process. To the contrary, the Court in Germano clearly recognized that a state's judiciary has the power to adopt a redistricting plan: "The power of the judiciary of a State . . . to formulate a valid redistricting plan has not only been recognized by this Court . . . [but has been] specifically encouraged." Id. at 409. The Court then went on to direct the District Court in the case before it to fix a reasonable time in which the state agencies, including the state supreme court, could redistrict the state. Id. Only after this direction did the Court direct the District Court to retain jurisdiction and authorize it to enter orders if a valid redistricting plan was not adopted. Id. at 409-10. In these directions, the Court clearly contemplated that the state supreme court might be the state agency that adopted the redistricting plan. Thus, Germano properly stands for the proposition that the federal court should

only "enter such orders as it deems appropriate" where the state, including its courts, is unable to create a valid redistricting plan.

In this case, Minnesota, through its Special Redistricting Panel, has already adopted a valid legislative redistricting plan. See App. A-259. In addition, the Special Redistricting Panel is proceeding to adopt a congressional redistricting plan, now that the Legislature has failed to enact a plan. Therefore, there is no need for the federal court to enter an order in aid of its jurisdiction because Minnesota is perfectly capable of creating valid redistricting plans in accordance with Germano.

Appellees' reading of Germano would render Germano at odds with Atlantic Coast Line R.R. v. Brotherhood of Locomotive Engr's, 398 U.S. 281 (1970), in which this Court expressly rejected the argument that a federal court may enjoin a state court from acting under the "aid of jurisdiction" exception to the Anti-Injunctive Act simply because parallel actions are proceeding in both federal and state courts. The Court rejected the argument even where resolution of the matters by both courts would be inconsistent and unworkable. Id. at 295-96. As stated by the Court in Atlantic Coast Line, even where state court proceedings "interfere with a protected federal right or invade an area pre-empted by federal law," a federal court "does not have inherent power to enjoin state court proceedings." Id. at 294. Instead, as the Court held subsequently in Chick Cam Choo

v. Exxon Corp., 486 U.S. 140, 149-50 (1980), the issue of federalpre-emption must be raised in the state court in the first instance and the state court should determine the limits of its own jurisdiction.

3. The District Court's Order of Stay Can Not be Sustained on Grounds That It Was Necessary in Aid of the Court's 1982 Redistricting Orders

Apart from their argument that the District Court's Stay Order was properly issued in aid of the District Court's 1991 jurisdiction, appellees argue that the District Court's order of stay was also necessary in aid of its ongoing jurisdiction derived from the 1982 federal redistricting action. Appellees place great weight on language in both LaComb v. Growe, 541 F. Supp. 145 (D. Minn.), aff'd sub nom. Orwoll v. LaComb, 450 U.S. 966 (1982) (LaComb I), and LaComb v. Growe, 541 F. Supp. 160 (D. Minn. 1982) (LaComb II), enjoining state election officials from conducting congressional and legislative elections "under any apportionment plan except that which we adopt today or a constitutional plan adopted after this date by the State of Minnesota," LaComb I, 541 F. Supp. at 151; LaComb II, 541 F. Supp. at 167 (emphasis supplied).

Appellees' argument, however, makes one fatal assumption. Appellees assume that the only redistricting plan that would satisfy LaComb I and LaComb II is one that the Minnesota Legislature enacts. See Motion to Dismiss at 10 ("[N]o subsequent constitutional plan has been adopted by the state of Minnesota.") Germano, however, unquestionably recognizes that

Minnesota's courts may adopt redistricting plans. To the extentthe LaComb I and LaComb II injunctions are ongoing, they dissolve the moment Minnesota, through its state legislature or its state judiciary, adopts constitutional redistricting plans. Such a legislative plan has been adopted. Therefore, contrary to appellees' assertions, the District Court's stay is not necessary to protect ongoing federal jurisdiction under the 1982 redistricting orders.

CONCLUSION

For the reasons set forth in appellants' Jurisdictional Statement and for the reasons stated herein, appellees' motion to reinstate the order of stay should be denied. The State Appellants further urge the Court to reaffirm its earlier order with directions to the United States District Court to defer to the pending and active state court proceeding. Such an order would provide guidance to the parties and the courts in Minnesota and would help prevent the issuance of competing plans by the state and federal courts.

DATED: January 23, 1992

Respectfully submitted,

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EDITOR'S NOTE

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No. 91-1084

Supreme Court, U.S.
FILED
JAN 23 1992
OFFICE OF THE CLERK

In the

Supreme Court of the United States

October Term, 1991

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all citizens of Minnesota similarly situated; Joan Growe, Secretary of State of the State of Minnesota; Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota; the Seventy-Seventh Minnesota State House of Representatives; and the Seventy-Seventh Minnesota State Senate,

Appellants,

vs.

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated; Duane Benson, Terry Dempsey, Delores Hettig, Richard Harmon, David E. Peterson, E.M. Patricia Pidcock, and Frank Ringsmuth; and Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Appellees.

Appeal from the United States District Court
for the District of Minnesota

APPELLANTS' RESPONSE TO APPELLEES' MOTION TO DISMISS THE APPEAL AND AFFIRM AND REINSTATE THE ORDER OF STAY OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

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STATUTES

Uniform Certification of Questions Act, Minn. Stat. §480.061.

COUNTER STATEMENT OF FACTS

Appellants Respondents Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein and Theodore Suss, individually and on behalf of all citizens of Minnesota similarly situated, respectfully submit that the Respondents' Statement of Facts set forth in their Motion to Dismiss Appeal and Affirm, etc., contains certain omissions which these Appellants believe to be relevant to the issues remaining before the Court. Those facts are as follows:

1. The Minnesota state court action entitled Cotlow, et al. v. Growe, et al., Court File Number C8-91-985, was filed on January 24, 1991. The two federal court actions were filed subsequently. Emison v. Growe was filed on or about March 18, 1991 and Benson v. Growe was filed on or about August 14, 1991.

2. The Cotlow, et al. v. Growe, et al. state court plaintiffs were not part of either federal case on July 22, 1991 when the motion asking the United States District Court to defer was brought.

3. The Emison plaintiffs in the federal court action are represented by the same legal counsel that represents the Intervening Plaintiffs in the state court action.

4. The United States District Court for the District of Minnesota has appointed special masters to draw plans of legislative and congressional redistricting even though the Minnesota state Special Redistricting Panel was in the process of developing a standby legislative plan and had stated in its pretrial orders that it would consider congressional redistricting

plans as of January 17, 1992. Appendix to Jurisdictional Statement at A-54.

5. The United States District Court for the District of Minnesota determined that the Minnesota Supreme Court would not have sufficient time to hear and decide any appeal from its Special Three Judge Redistricting Panel without inquiring of the state court if it in fact could hear any such appeal in a timely fashion. See Uniform Certification of Questions Act, Minn. Stat. §480.061.

6. The Order of the United States District Court issued August 21, 1991 refusing to defer to the Minnesota State Special Three Judge Redistricting Panel, itself, was in direct contravention of the holding and purposes of this Court's decision in Scott v. Germano., 381 U.S. 407, 85 S.Ct. 1525 (1965).

7. Neither the citizens of Minnesota nor the Minnesota Legislature felt that the State Redistricting Panel's Order of November 21, 1991, had any "intimidating" effect on the 1992 legislative session. The Governor of Minnesota had long before told the United States District Court that he would veto any plan based upon the previously adopted redistricting law. See attached Affidavit of Arne Carlson (Exhibit A).

ARGUMENT

Respondents argue in their Motion to Dismiss or Affirm that the December 5, 1991 stay was entered to "protect federal jurisdiction and prior District Orders" and "to insure that the state legislature was given adequate opportunity to adopt a valid redistricting plan in a timely fashion." The second of these

reasons is now totally moot. The Minnesota legislature adopted amendments to its 1991 redistricting plan during the recently concluded short session. Those amendments included essentially the same modifications that had been adopted by the Special State Redistricting Panel in its December 9, 1991 final judgment. The governor of Minnesota, however, vetoed that legislation just as he had sworn he would in his affidavit filed in the District Court below. See Attached Affidavit of Arne Carlson. Thus the "adequate opportunity" which the Minnesota legislature did not ask for in the first place has come and gone with no successful action.

The other alleged basis for the December 5, 1991 stay (i.e. "in aid of jurisdiction") is totally without legal justification. No federal court stay of the state court's final judgment was necessary to protect concurrent federal jurisdiction for two reasons. First, the August 21, 1991 Order of the District Court was itself a violation of the rule of Scott v. Germano, 381 U.S. 407, 85 S.Ct. 1525 (1965), to the extent that the federal court refused to defer to a previously filed and speedily heard state court redistricting case. Thus it is blatant "bootstrapping" to now argue that the December 5, 1991 Order was necessary to protect the efficacy of the August 21, 1991 Order.

Second, since the state court had, prior to December 5, 1991, indicated its intent to issue a final judgment forthwith, that judgment should have been respected by the federal District Court, subject to appeals to the Minnesota Supreme Court and ultimately to this Court. The federal District Court should not have sat in

review of the state court decision. Since a valid plan of legislative redistricting has now been promulgated by the Minnesota state courts (subject to appeal), the federal court actions (Emison v. Growe, No. 4-91-202 and Benson v. Growe, No. 4-91-603) with respect to legislative redistricting should now be dismissed.

As to congressional redistricting, the District Court should be directed to enter an Order fixing a reasonable time within which the appropriate agencies of the State of Minnesota, including its Special Redistricting Panel and its Supreme Court may validly adopt congressional districts provided that the same be accomplished within ample time to permit such plan to be utilized in the 1992 congressional elections. Scott v. Germano, supra at 409.

A bill creating new congressional districts with a zero population deviation and based upon (a) present state policies and (b) the court ordered plan of 1982. LaComb v. Growe, 541 F.Supp. 145 (D. Minn. 1982), as legislatively modified to reflect population shifts was adopted by the legislature on or about January 9, 1992 but was vetoed by the governor on that same date. The Special State Redistricting Panel is now considering a motion filed by Appellants Cotlow et al., joined by the State of Minnesota and its local election officials, to adopt that bill as the state court's plan of congressional redistricting or to modify it. Hence there is no further need for the District Court to exercise "oversight" with respect to the state court proceedings.

These Appellants respectfully request the United States Supreme Court to issue an opinion directing the United States

District Court for the District of Minnesota to stay its hand from further processing of the cases before it upon the authority of Scott v. Germano, 381 U.S. 407, 85 S.Ct. 1525 (1965), and Atlantic Coastline Railroad v. Brotherhood of Locomotive Engineers, 398 U.S. 281, 295 (1970). Appellants request this relief because it appears that the District Court continues to search for ways to override the state judiciary (see e.g. attached sua sponte Order of January 3, 1992, directing briefing with respect to "political gerrymandering," Exhibit B).

The federal special masters continue to draw legislative and congressional plans. The court continues to issue orders to process the federal cases and the people of Minnesota are being asked to pay for redistricting by another body.

CONCLUSION

The legislature attempted in good faith to fix Laws 1991, Chapter 246, and to adopt a plan of congressional redistricting. Now that the governor has vetoed those plans the state court standby plans are effective. There is simply no need for the federal District Court to issue any plan. The court below needs to be so instructed.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

IN RE: REAPPORTIONMENT LITIGATION

James Emison, et al.,

Plaintiffs,

v.

Joan Anderson Growe, Secretary of State of State of Minnesota, et al.,

Defendants.

MASTER DOCKET
CIVIL #4-91-202

Duane Benson, et al.,

Plaintiffs,

v.

Joan Growe, Secretary of State of State of Minnesota,

Defendant.

CIVIL #4-91-603

AFFIDAVIT OF GOVERNOR ARNE H. CARLSON

1. I am the Governor of the State of Minnesota.

2. It is my understanding that this Court in its Order dated August 21, 1991, has noted the intention of the Defendants Minnesota Legislature and Minnesota Secretary of State to amend Laws Minnesota, 1991, Chapter 346 in devising a legislative reapportionment plan that will be presented to the legislature in January, 1992.

3. During the 1991 session of the Minnesota legislature, the legislature passed Senate File 1571, a bill redrawing the state

EXHIBIT A

legislative districts. I attempted to veto that bill because, in my opinion, it contained fundamental problems, including what I viewed as obvious unconstitutional provisions as well as numerous other technical and substantive flaws which affected the overall fairness, or lack thereof, of the plan to all Minnesota citizens.

4. Even though the Ramsey County District Court ruled that my attempt to veto Senate File 1671 was ineffective, and this legislation was enrolled as Chapter 146 of the 1991 Minnesota Session Laws, my fundamental and serious concerns about the bill remain. Therefore, I will not provide my needed signature as Governor and will in fact veto any bill which I receive for consideration from the Minnesota legislature from the 1992 session pursuant to Section 23 of Article 4 of the Minnesota Constitution, unless such bill: (a) changes the basic provisions of Chapter 246 in a way which corrects the fundamental problems I believed that the structure of the bill had when I first attempted to veto Senate File 1671; and (b) provides the essential element of fairness needed for all Minnesotans in any state legislative reapportionment plan.

FURTHER AFFIANT SAYETH NAUGHT.

Governor Arne H. Carlson

Subscribed and sworn to before me
this 10th day of October, 1991.

Donnette Hilton
Notary Public

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DONNETTE L. HILTON
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
My Comm. Expires Apr 4, 1996

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

CIVIL #4-91-202

James Emison, Judy Fairbanks, Marie Iverson, Ken Dean, Steve Castillo, Lew Freeman, and Yao Lo, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

and

Patricia Cotlow, Phillip Krass, Sharon LaComb, James Stein, and Theodore Suss, individually and on behalf of all Citizens of Minnesota similarly situated,

Intervening Plaintiffs,

ORDER

v.

Joan Growe, Secretary of State of the State of Minnesota; Mark Lundgren, Carver County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendants,

and

The Seventy-seventh Minnesota State House of Representatives; and the Seventy-seventh Minnesota State Senate,

Defendant Intervenors,

and

Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State

FILED JAN 03 1992
FRANCIS E. COSAL, CLERK
JUDGEMENT ENTERED
DEPUTY CLERK'S INITIALS

EXHIBIT B

of Minnesota,

Defendant
Intervenor.

AND

Duane Benson, Terry Dempsey, Delores Hettig, Richard Harmon, David E. Peterson, E.M. Patricia Pidcock, and Frank Ringsmuth,

Plaintiffs,

v.

Joan Growe, Secretary of State of the State of Minnesota,

Defendant,

and

Patrick O'Connor, Hennepin County Auditor, individually and on behalf of all County Auditors of the State of Minnesota,

Defendant
Intervenor.

Before CHIEF JUDGE LAY, Circuit Judge, MacLAUGHLIN, District Judge, and MAGNUSON, District Judge.

The scheduled hearing set for January 27, 1992, at which time the parties are to report on the final efforts of the legislative plan dealing with the state redistricting and congressional redistricting is hereby vacated; the hearing shall be held at 9:30 a.m. on February 4, 1992, on the fifth floor of the Federal Building, 316 North Robert Street, St. Paul, Minnesota, in courtroom number one.

Each of the parties is asked to respond to the following inquiry: In what specifics do you find: (a) the state redistricting plan, and (b) the congressional redistricting plan as proposed by the opposing party, to be unfair, including any alleged "gerrymandering" which you find to be inherent within each of the proposed plans.

Each party is to submit its response to the court's inquiry by January 10, 1992. Each party may file a reply to such response on or before January 17, 1992.

It is so ordered.

Dated: January 3, 1992.

By the Court:

Donald P. Lay